

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF OREGON

3 UNITED STATES OF AMERICA,)
4 Plaintiff,) No. 05-60008-2-HO
5 v.) September 1, 2010
6 PIROUZ SEDAGHATY, et al.,) Eugene, Oregon
7 Defendants.)

8

9 PARTIAL TRANSCRIPT OF TRIAL PROCEEDINGS

10 BEFORE THE HONORABLE MICHAEL R. HOGAN

11 UNITED STATES DISTRICT COURT JUDGE, AND A JURY

12 DAY 3 A.M. SESSION - PAGES 1 - 113

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1 (Wednesday, September 1, 2010; 9:12 a.m. Jury absent.)

2 P R O C E E D I N G S

3 THE COURT: Thank you. Be seated, please.

4 Mr. Cardani, I've been told that you are aware
5 of a situation where a witness and a juror made contact.

6 MR. GORDER: Yes, Your Honor. I can address
7 that.

8 THE COURT: Okay. Thank you.

9 MR. GORDER: Last night after Barbara Cabral
10 left the courtroom and she was down in our office
11 getting paperwork put together, she informed us that as
12 she got off the stand last night, so this is as she
13 finished her testimony and walked by the jury box, one
14 of the jurors, and I believe it's Juror Number 1,
15 Ms. West, she described her as the lady with red hair.

16 THE COURT: That's certainly true.

17 MR. GORDER: Yes, and a hairdresser would know.
18 Anyway, said -- whispered to her something like "good
19 job." And that was it. I think Ms. Cabral --

20 THE COURT: So she may or may not know her?

21 MR. GORDER: Well, she doesn't know her.

22 THE COURT: She doesn't know her?

23 MR. GORDER: She doesn't know her. It's just a
24 comment "good job." And just as we were coming to the
25 courtroom this morning, Ms. Cooke tells me she passed a

1 couple of jurors in the hallway, and one of them said to
2 her, "you're doing a good job keeping the equipment
3 running smoothly" or words to that effect. So I just
4 wanted to bring that to the court and party's attention.
5 And I don't know that further action needs to be taken,
6 but I think the jurors need to be told once again that
7 we're not being rude if we don't talk to them.

8 THE COURT: Yeah. Mr. Wax.

9 MR. WAX: Your Honor, we would move for the
10 removal of Juror Number 1. Unfortunately, experienced a
11 similar situation in a case I tried a couple of years
12 ago, and we briefed the issue. It was in front of Judge
13 Mosman. One of the jurors approached the government
14 witness and initiated contact. The law, as I understand
15 it, is clear that any such contact is presumptively
16 prejudicial.

17 THE COURT: You'll have to give me some law on
18 that. I don't know it.

19 MR. WAX: Caliendo, C-A-L-I-E-N-D-O, versus
20 Warden. It's at 365 F3d 691 at pages 696 and 698. It's
21 a Ninth Circuit case from 2004. And it seems to me that
22 for the juror to make that comment evinces a number of
23 potential things. First --

24 THE COURT: You'd have to speculate as to what
25 that is at this point, though.

1 MR. WAX: Well, as I said, a number of
2 potential things, Your Honor.

3 THE COURT: All right.

4 MR. WAX: I don't think an inquiry is needed.
5 I just think that the contact is in and of itself
6 presumptively prejudicial. To say "good job" to a
7 government witness in the courtroom seems to me to be
8 violating this court's directive to them. It
9 potentially evinces a pro-prosecution bias. And even
10 without that, the fact of her initiating the contact
11 seems to me means that she needs to be removed.

12 THE COURT: Okay. I'll look at the case. So
13 I'll take the motion under advisement.

14 MR. WAX: All right. Well, we would like, if
15 possible, to have this resolved before any additional
16 testimony is taken, Your Honor.

17 THE COURT: We're not going to do that.

18 MR. WAX: We would also request further inquiry
19 of Ms. Cooke, which jurors talked to her, and when.

20 While the comment, you know, is, you know,
21 potentially innocuous, you know, we have, you know,
22 passed jurors in the hallway and have not had
23 communication initiated with us. And, again, it seems
24 to me that it is evincing a bias, and that an inquiry is
25 required.

1 THE COURT: Mr. Gorder.

2 MR. GORDER: Your Honor, I'm not familiar with
3 the case, you know, that Mr. Wax has cited. It might
4 make sense to have some kind of inquiry with Ms. West at
5 some point --

6 THE COURT: I agree.

7 MR. GORDER: -- but perhaps you should read it.
8 And if you want to hear from Ms. Cooke directly on the
9 issue, she's here.

10 MR. WAX: Your Honor, if you are going to do an
11 inquiry, I think that it would be -- first, we don't
12 believe it's necessary. Second, if you are going to do
13 one, I believe it would be necessary to determine
14 whether there has been any communication among any of
15 the other jurors, and any discussions among them, if
16 she's passed on her comment to anyone else, you know,
17 boy, that witness did a good job, that that would also
18 be violating the court's instructions at the outset of
19 the case.

20 It may also be that the juror sitting next to
21 her heard it. I think that this is a very serious
22 situation and could potentially lead to a motion for a
23 mistrial, which is why I think an inquiry at this point
24 is in order.

25 THE COURT: Pull the case, please, David.

1 What else do you have?

2 MR. GORDER: Your Honor, just a housekeeping
3 matter. Yesterday we resolved a dispute about a
4 paragraph in one of the -- in the transcript for the
5 video EK-7. We agreed to just delete a couple of
6 sentences from the transcript. So I have a new and
7 improved EK-7A to substitute for the one that the clerk
8 has at this point.

9 As I understand it, you admitted -- you've
10 allowed this testimony as an aid to the jury. This
11 transcript is not going to go to the jury anyway, but
12 for the record, it should be substituted.

13 THE COURT: Mr. Wax.

14 MR. WAX: It's agreeable, Your Honor.

15 THE COURT: All right. It's received. We'll
16 receive it. We'll withdraw EK-7 and --

17 MR. GORDER: 7A.

18 THE COURT: -- EK-7A. Do you have a different
19 7A?

20 MR. GORDER: Yeah, I --

21 THE COURT: Well, to keep our record straight,
22 let's call it 7A1. You've got to put another mark on
23 it.

24 MR. GORDER: Okay.

25 MR. MATASAR: Your Honor, I wanted to address,

1 if I could, the technical issues --

2 THE COURT: You may. It's received,

3 Mr. Gorder. Go ahead.

4 MR. MATASAR: The technical issues that you
5 mentioned. I just wanted the court to know that before
6 we came, in the weeks before and in the very week before
7 the trial, we talked with a technical person about
8 having some sort of communication system amongst the
9 team so we wouldn't need, perhaps, to be passing notes
10 back and forth.

11 So the communication was okayed by the tech
12 person, and we thought was appropriate for the court,
13 that we could send -- rather than pass yellow papers and
14 interrupt each other back and forth, that we would be
15 able to use that system.

16 It may be that other people in the courtroom,
17 maybe the press or others who are sitting with our
18 people and making a lot more keyboard noise and notes
19 than we were, but I just want the court to know that we
20 got the okay to do that, and we thought it was a way to
21 reduce interruption.

22 THE COURT: That's fine. That's not your
23 fault.

24 MR. MATASAR: I have another matter, but I'll
25 wait until you are done reading the case, Your Honor.

1 THE COURT: All right.

2 (Pause in the proceedings.)

3 THE COURT: The case is not as bright line,

4 Mr. Wax, as you suggest. But I don't want to take a

5 chance with the trial either, because it's a case where

6 a witness -- a police officer was talking for 20 minutes

7 in the hallway with three jurors. And probably what

8 happened here, there was pretty aggressive questioning

9 of a private citizen that some may have felt

10 uncomfortable about, and apparently this juror did, so,

11 you know, I think probably it's nothing, but I don't

12 want to take a chance and have to do this again. So I'm

13 going to grant the motion, the juror is dismissed.

14 When you bring the jury in, apologize to the

15 juror that I can't be out there and talk to her, and

16 that we're very sorry that we've had to take this

17 action. All right?

18 THE CLERK: Juror Number 1?

19 THE COURT: What else do you have, Mr. Matasar?

20 MR. MATASAR: Your Honor --

21 THE COURT: Don't do that in front of the other

22 jurors.

23 MR. MATASAR: It may be that this occurred as I

24 was leaving and the court stayed on the bench, but I

25 understand that you indicated that you had ruled that my

1 opening about the unemployment tax --

2 THE COURT: Yes.

3 MR. MATASAR: -- opened the door about --

4 THE COURT: Yes.

5 MR. MATASAR: Last I heard, you were
6 considering it.

7 THE COURT: I wasn't straight, and then I ruled
8 yesterday.

9 MR. MATASAR: Okay. Well, I wasn't here, so
10 let me just -- if I could have 30 seconds to indicate
11 that my argument was that the accountant was not
12 communicating with his client and reading the material
13 from the IRS about the federal unemployment tax, which
14 is really completely different from the issue that is
15 raised by the check, which is not paying federal
16 withholding tax, kind of under-the-table payment. We
17 would just have the court stick with your previous
18 ruling that people do that. If you look at 403, the
19 prejudicial effect and the probative value is
20 outweighed.

21 THE COURT: Yeah. I've done my best to jog on
22 both sides here to narrow the focus, and without much
23 success, frankly. And I think that it's pulled into
24 being more probative than prejudicial at this point.
25 All right. Anything else?

1 MR. WAX: Your Honor, will you admonish the
2 jurors? I think the government --

3 THE COURT: Of course I will.

4 MR. WAX: -- requested that -- thank you.

5 And will you advise them of the reason why this
6 juror has been excused?

7 THE COURT: No. All right. Seat the jury,
8 please.

9 You know, if you want to do this -- if you want
10 to pull Ms. West aside, maybe take her up to chambers
11 and then Jill bring the other jurors in, so there is no
12 embarrassment in front of the others.

13 (Jury enters the courtroom at 9:30 a.m.)

14 THE COURT: Good morning, Jurors. I'm more
15 sorry than you know about having to hold you back in the
16 jury room.

17 I need to remind you of one comment I made
18 earlier. I told you that you can't talk to anybody else
19 about the case until it's time to deliberate. And you
20 should keep an open mind yourselves until then. But
21 that's -- this includes people who are witnesses or
22 attorneys or people that work for attorneys. If you
23 want to say hello to me, that's fine, because we run
24 into each other in the hallway. But we have to be very
25 careful about this. And if they don't speak to you,

1 it's not because they are rude. It can seem impolite.
2 If you don't speak to them, it won't be because you're
3 rude. It's just sort of whether or not to do it. So
4 I'd ask you to be very careful of that. Okay? Thank
5 you.

6 Call your next witness.

7 MR. GORDER: Your Honor, we would call Daveed
8 Gartenstein-Ross.

9 THE COURT: Thank you.

10 (The witness was sworn.)

11 THE CLERK: Please step forward and watch your
12 step.

13 THE WITNESS: Thanks.

14 THE CLERK: Please state your name, then spell
15 your name for the record.

16 THE WITNESS: Daveed Gartenstein-Ross,
17 D-A-V-E-E-D, last name G-A-R-T-E-N-S-T-E-I-N, hyphen,
18 R-O-S-S.

19 DIRECT EXAMINATION

20 BY MR. GORDER:

21 Q. Sir, could you tell the jury where you reside
22 and what you do for a living.

23 A. I reside in Washington, D.C. where I work for a
24 think tank, The Foundation For Defense of Democracies,
25 where I primarily research counterterrorism issues.

1 Q. Now, you are not being paid today as an expert
2 witness or appearing as an expert witness?

3 A. That's correct, I am not.

4 Q. You are here pursuant to a subpoena?

5 A. That's correct.

6 Q. Could you tell us a little bit about your
7 background before -- I guess starting with where you
8 grew up and where you went to college.

9 A. I grew up in Ashland, Oregon, graduating from
10 Ashland High School in 1994. And then went to college
11 at Wake Forest University in Winston-Salem, North
12 Carolina, graduating in December of 1998.

13 Q. Were you raised in any particular religious
14 faith?

15 A. My parents are Jewish ethnically, but they
16 practiced a syncretistic kind of religion; that is, they
17 combined different religious views. We had a statue of
18 Buddha in the backyard, pictures of Jesus and the like.

19 Q. Now, at some point while you were in college,
20 did you convert to the Muslim faith?

21 A. I did. In December of -- or in the fall of
22 1997.

23 Q. And at some point, did you begin to understand
24 that there were other Muslims in the Ashland area?

25 A. I did.

1 Q. Can you explain how that happened.

2 A. In December of 1997, I went back to Ashland.
3 And we looked in -- I was with a friend of mine who was
4 also a Muslim, who helped to lead me to Islam in the
5 first place. And we looked in the local newspaper and
6 found that there were actually Friday services, Jummah
7 prayers, with the local foundation called the Qur'an
8 Foundation.

9 Q. And what's a Jummah prayer?

10 A. Jummah prayer is the Friday afternoon
11 congregational prayers within Islam.

12 Q. Now, you indicated you saw something in the
13 paper about it. Did you take any action in response to
14 that?

15 A. Yes. My friend and I ended up attending the
16 Friday afternoon prayers.

17 Q. And where was that?

18 A. It was at -- in the back of Seda's house on
19 Crowson Road in Ashland.

20 Q. Now, when you say "Seda," who are you referring
21 to?

22 A. I'm referring to the defendant (indicating).

23 Q. Was that the first time you met the defendant?

24 A. Yes, to the best of my knowledge.

25 Q. Okay. Did you -- what kind of interaction did

1 you have with him at that point?

2 A. Not a whole lot during that particular visit.

3 Q. Did you learn that he sometimes used a
4 different name?

5 A. Yes. During that visit, I learned that he used
6 the name Pirouz Sedaghaty sometimes, and also he used
7 the name Abu Yunus Sedaghaty.

8 Q. Now, were you still in college at this point in
9 time?

10 A. I was.

11 Q. So was this like the winter break?

12 A. Yes, it was.

13 Q. Okay. You went back to college?

14 A. I did, yeah.

15 Q. Okay. What was your next interaction with
16 Mr. Seda?

17 A. It was in the summer break of 1998. I returned
18 again for congregational prayers and found that it had
19 been moved from the previous location, Crowson Road,
20 which was in his residence, to a new location on the
21 south end of town, which was a much larger building with
22 fairly expansive property that was now the main house of
23 prayer.

24 Q. And was that on Highway 99?

25 A. It was.

1 Q. Now, at some point, did you hear any sermons or
2 whatever the Islamic equivalent would be involving
3 someone named Hassan Zabady?

4 A. Yes. Hassan Zabady gave the first sermon or
5 Khutbah in Arabic that I heard. He delivered it in
6 December of 1997, the first time I visited the
7 foundation.

8 Q. Okay. So this was still at the Crowson Road --

9 A. That's correct.

10 Q. What do you recall from that sermon?

11 A. It was a rather extreme sermon. He argued that
12 Muslims would become corrupt in their faith living in
13 the West; and that we had to leave Western countries or
14 else they would corrupt our morals.

15 My friend, who accompanied me, who I mentioned
16 before, actually spent some time after the sermon
17 discussing or disputing some of Hassan Zabady's points
18 with him. I recall that at the end of the exchange,
19 Zabady pointed angrily at the surrounding area, and
20 said, just look at all these homosexuals here, it's
21 going to corrupt us.

22 Q. Now, was he living in the United States?

23 A. Yes, in northern California.

24 Q. What -- did you observe any interaction between
25 the defendant and Hassan Zabady?

1 A. Yes. Both at the time and also over time.
2 When I went back to work there the following year,
3 Hassan Zabady was not a frequent but an occasional
4 visitor.

5 Q. And how was he treated?

6 A. He was treated as a guest of honor. He was
7 viewed as a man with great knowledge of the faith. Seda
8 would address him with the honorific of Sheikh. He
9 would give sermons when he'd come, not always, but if he
10 wanted to give the sermon, he would.

11 Q. Now, you indicated that when you came back in
12 the summer, there was this new place on Highway 99. Can
13 we see Exhibit SW-66. Do you recognize that?

14 A. I do.

15 Q. And what is it?

16 A. That is the place where I went for prayer in
17 the summer of 1998. It's the U.S. offices of the
18 al-Haramain Foundation where I ended up working for
19 about -- for the better part of a year.

20 Q. Now, when you first got back and you heard --
21 you learned about this new location on Highway 99, did
22 you have a discussion with Mr. Seda about why the move?

23 A. Yes. Mr. Seda informed me that they had gotten
24 money from a Saudi Arabian charity, which had allowed
25 them to get this new building; and that, you know, with

1 the Saudi backing, he had big plans for this
2 organization.

3 Q. And what was the name of the Saudi charity?

4 A. The al-Haramain Islamic Foundation.

5 Q. Had you ever heard of it at the time?

6 A. I had not.

7 Q. Now, you indicated that at some point you
8 started working for al-Haramain. How did that come
9 about?

10 A. Mr. Seda, after the sermon I went back for in
11 the summer of 1998, gave me a tour of the premises, and
12 he said that they were looking to hire people and
13 encouraged me to apply for a job, which I did, and was
14 subsequently hired.

15 Q. When did you first start working there?

16 A. In December of 1998, so a year after my first
17 visit to the Qur'an Foundation.

18 Q. Now, were you still in college or what was the
19 situation?

20 A. No, I had just graduated.

21 Q. In December of 1998?

22 A. Correct.

23 Q. You had come home to Ashland after graduating?

24 A. Yeah, that's correct.

25 Q. Now, can you tell us what were your job

1 responsibilities, how were you working there, that sort
2 of thing?

3 A. I had a number of responsibilities. I would
4 conduct relations with the local press. I would be
5 involved in the distribution of literature. I would --
6 I ultimately took over the responsibility, although this
7 wasn't originally something I was assigned to, of filing
8 monthly reports with the head office in Saudi Arabia
9 basically indicating what we were due on a month-to-
10 month basis to justify them continuing to fund the
11 operation. And also entered some of the financial data.
12 There were other special projects that would come up
13 from time to time on Mr. Seda's discretion.

14 Q. Could we see SW-64. Now, have you seen this
15 exhibit before --

16 A. Yes.

17 Q. -- sir? Appears to be a diagram of the house
18 on Highway 99?

19 A. That's correct.

20 Q. Okay. The first page here depicts the lower
21 level. Did you spend much time on the lower level of
22 the house?

23 A. I did not.

24 Q. Okay. And why was that?

25 A. Because the congregation practiced strict

1 gender segregation. And there would often be families
2 downstairs, which meant that I couldn't go downstairs or
3 else I would end up mixing with women. Sometimes I
4 would go downstairs, but in general that was an area
5 which -- sometimes it would be families. And certainly
6 during religious events or during congregational
7 prayers, that was where the women would pray. They
8 would have an amp which connected to the microphone for
9 the person giving the sermon, but there was no mixing of
10 men and women.

11 Q. Now, if we could go to the second page. And
12 this depicts the upper level; is that correct?

13 A. That's correct.

14 Q. And could you point out for the jury -- and if
15 you actually touch the screen, it will appear for us.
16 Where did you work while you were working?

17 A. I worked right here (indicating).

18 Q. Okay. And was that basically a 9:00 to 5:00
19 job?

20 A. It was.

21 Q. Five days a week?

22 A. Yes.

23 Q. Okay. Now, we've blown it up a little bit.
24 This is the office, room A. Where did you do your work?

25 A. This was my computer (indicating).

1 Q. Okay. The one that's labelled Seda 7?

2 A. Correct.

3 Q. Okay. Was Mr. Seda living at this location
4 while you were working there?

5 A. Not while I was there.

6 Q. How long did you actually work for al-Haramain?

7 A. From December of 1998 until August of 1999.

8 Q. So approximately eight or nine months?

9 A. Correct.

10 Q. Now, there is a couple of other computers
11 depicted in this office. Were they there at the time?

12 A. They were.

13 Q. They were?

14 A. Yes. I mean, not necessarily -- not the
15 computers that are listed here. You have a laptop
16 listed. They were all desktops at the time, but there
17 were two other computers in the office when I was there.

18 Q. Now, were there other employees working for
19 al-Haramain?

20 A. Yes.

21 Q. And who were they?

22 A. David Hafer and Rob Brown.

23 Q. And what was Mr. Hafer's duties with the
24 foundation?

25 A. He took care of the building and the grounds,

1 including caring for the livestock that was kept on the
2 premises. He also handled distribution of literature
3 and some other tasks.

4 Q. Okay. Was he living at the premises?

5 A. He was.

6 Q. And Mr. Brown, you mentioned, what was his
7 responsibilities?

8 A. He was supposed to take care of, amongst other
9 things, the monthly reports and the financial, keeping
10 tabs on our expenses from, you know, month to month, but
11 ultimately I had to take those over because he had
12 trouble performing those duties.

13 Q. Now, was -- what was Mr. Seda's role while you
14 were working there?

15 A. Mr. Seda was the man in charge. He was the
16 conduit between the Saudi Arabian head office and the
17 branch office in Ashland, Oregon. He would give
18 instructions on a daily basis. We would talk usually in
19 the morning, sometimes at another time during the day,
20 and he would relay what he wanted to get done that day
21 in terms of overall projects and other responsibilities.

22 Q. In terms of the finances, who was in charge?

23 A. Well, I'm not sure what you mean by that
24 question.

25 Q. Okay. Who signed the checks?

1 A. That kept us running? You mean -- there is two
2 answers to that. One is that Saudi Arabia ultimately
3 signed the checks that kept us running from month to
4 month. But the second -- for the employees, Mr. Seda
5 was the person who would sign the checks in order to --
6 you know, he would be the one who paid our salary. He
7 was the one who had the ability to hire or fire us.

8 Q. Now, did you help keep the books and that sort
9 of thing?

10 A. I did.

11 Q. Would you explain how you did that.

12 A. There would be expenses, including routine
13 expenses such as electric bills, phone bills and the
14 like, and a few other expenses, I would enter them into
15 Microsoft Key Access database.

16 Q. And in terms of the money coming in, where did
17 it come from?

18 A. Almost 100 percent came from the office in
19 Saudi Arabia.

20 Q. That was the al-Haramain office?

21 A. Correct.

22 Q. Now, how were you paid?

23 A. I was paid with two checks. Mr. Seda intended
24 to pay me under the table. Ultimately, I ended up
25 reporting the money on taxes at the end of the year.

1 Q. Can we see BOA-6, please.

2 Mr. Gartenstein-Ross, do you recognize this particular
3 check?

4 A. I do.

5 Q. It's drawn on -- appears to be drawn on an
6 al-Haramain account?

7 A. That's correct.

8 Q. It's dated in January 1998?

9 A. Correct. Yes, I recognize the check.

10 Q. Okay. And what is it?

11 A. That is the first salary check that I was paid.

12 Q. For \$2060?

13 A. Yes.

14 Q. Now, down at the bottom it says "Power Mac."
15 What is that?

16 A. That is what Mr. Seda wrote on the check. It
17 was his intention, as I said, to pay me under the table.

18 Q. What does that mean to you?

19 A. That it was -- you were off the books, not to
20 be reported to the IRS. We actually had a fairly
21 lengthy discussion about this.

22 Q. Okay. By the way, it says 1998 on the check,
23 in January, but you were working there in '99, right?

24 A. 1998 is not the correct date. That would be an
25 error of writing. This was January 25th of 1999 when

1 the check was written.

2 Q. Now, you say you had an extensive discussion
3 about the check. Could you tell us what that discussion
4 was?

5 A. Well, this was my first job after college. And
6 I didn't really know how to deal with this, but he had
7 this long discussion, I'm going to put "Power Mac" on
8 the check; you be prepared to testify that this was for
9 a computer. And I didn't really know how to respond to
10 that. I didn't want to be paid under the table, but,
11 you know, it was a job that I had to have at that point.

12 Q. You didn't sell him a "Power Mac"?

13 A. I did not, no.

14 Q. Or any other computer?

15 A. No. This was my employment check.

16 Q. You indicated that there was some discussion
17 about testifying?

18 A. Yeah, he meant it if we were ever prosecuted
19 for it.

20 Q. And what did he say in that regard?

21 A. He said "would you be prepared to take the
22 stand and say that this was for a computer?"

23 Q. And what did you say?

24 A. I said "yes."

25 Q. Did you at some point change your mind on that?

1 A. Well, yeah, I mean, I had changed my mind -- at
2 the time I wasn't sure how to handle it, but I decided
3 that what I was going to do was at the end of the year
4 just report it as income anyway, and not really deal
5 with the issue of how he wanted to pay with me -- pay
6 me. And, ultimately, you know, at the end of the year
7 when it came time to file taxes, I talked to Mr. Seda
8 and told him I was going to report the income.

9 Q. And what did he say at that point?

10 A. He said that was fine.

11 Q. Now, you indicated that another part of your
12 duties was to write reports or that sort of thing?

13 A. Yes.

14 Q. What was that all about?

15 A. The reports were for the head office in Saudi
16 Arabia. They were informing the office what we were
17 doing on a month-to-month basis, our accomplishments,
18 you know, what projects we wanted to undertake. They
19 would often include requests for money, or money that
20 was spent, or money that we wanted to get for additional
21 projects.

22 Q. Now, did Mr. Seda review your reports before
23 they were sent to Saudi Arabia?

24 A. Yes, he did.

25 Q. Okay. And how was his English reading and

1 writing abilities?

2 A. His reading ability was fine. He would read
3 things, including e-mails, including reports. His
4 writing ability wasn't great. You know, it would
5 often -- he would be able to communicate but there would
6 often be spelling errors or grammatical errors or the
7 wrong word used in certain circumstances.

8 Q. Now, how would he edit your reports?

9 A. Usually he would look over it to make sure
10 that, for one thing, we were doing a good enough sales
11 job for the Saudi Arabian office, that we weren't
12 putting anything in there that would offend them
13 Islamically.

14 Second, he would often edit the language to
15 make sure that the language came across as more
16 religious, inserting phrases like Inshallah, which means
17 God willing, or Alhamdulillah, which means all praises
18 due to God.

19 Q. Now, can you give us an example of what you
20 indicated was more positively?

21 A. I'm sorry, I didn't hear you.

22 Q. Could you give us an example of something he
23 changed to report to Saudi Arabia?

24 A. Well, when I first got there, one of the first
25 things we did was we had a presentation to a high school

1 class about Islam. And, you know, constant with their
2 belief in gender segregation, the men and women were on
3 different sides the room. But the head office
4 apparently got some photographs of this, and were
5 offended that the men -- the boys and the girls in this
6 class were in the same room to begin with. And so on
7 that particular report, we very much de-emphasized the
8 presentation, because they believed that having boys and
9 girls in the same room was Islamically incorrect.

10 Q. Now, did you have any duties with regard to
11 prisoners in the United States?

12 A. I did.

13 Q. And could you explain what that was?

14 A. I would grade different forms that were sent in
15 by prisoners. They had a standard form to assess the
16 prisoners' Islamic knowledge, which --

17 Q. How would you -- I mean, how was it that you
18 were trying to assess prisoners?

19 A. I'm sorry, I didn't actually do the grading of
20 the forms, but I would look at the forms and the scores,
21 somebody else had graded them. They'd be graded
22 according to things like who is Allah? Who is Jesus?
23 What are the tenets in Sunan al-Fitrah?

24 Q. You might want to slow down and spell that for
25 the court reporter.

1 A. Well, the last one's not particularly relevant
2 here, Sunan al-Fitrah is S-U-N-A-N, A-L, hyphen,
3 F-I-T-R-A, which is different aspects of the Sunnah or
4 Muhammad's example that Muslims were supposed to
5 incorporate into the way that they looked. So the point
6 with that one is it's a fairly complex question.

7 There were other questions -- there were ten
8 questions overall, ranging from the basic to the more
9 advanced on this form.

10 Q. How was it that prisoners got this form?

11 A. That's a good question. I think that it was
12 through relationships with the chaplains, and then word
13 of mouth. Often prisoners would write to us requesting
14 literature and then we would send them the form back in
15 order to assess their Islamic knowledge. Then the
16 literature that they received would be based upon how
17 well they did on the form.

18 Q. So it was kind of like a test to see what your
19 faith was?

20 A. Yeah, both what your faith is and also how
21 advanced your knowledge of the faith is.

22 Q. And was that a big part of your duties?

23 A. It wasn't an enormous part, but it was
24 something that I would spend time on every week and
25 usually everyday.

1 Q. And you said somebody else evaluated the
2 questionnaires?

3 A. Yes.

4 Q. And who was that, if you know?

5 A. I don't know. The questionnaires were
6 evaluated by other people.

7 Q. Okay. And there was some ultimate grade that
8 came out of it?

9 A. Yes. The minimum grade for someone to be a
10 Muslim was a three out of ten. That's if they answered
11 questions like -- right -- such as who is Allah? Who is
12 Muhammad? Who is Jesus? And, you know, if they got
13 that three, then there are certain books that would be
14 sent to them as a result.

15 Q. And what books were those?

16 A. Well, one of them was the al-Halali and Khan
17 translation of the Qur'an, which was a Saudi translation
18 of the Qur'an. Also, the Brief Illustrated Guide to
19 Understanding Islam. If they got a higher score, they'd
20 be sent more advanced materials such as Muhammad bin
21 Jamil Zino's Islamic Guidelines for Individual and
22 Social Reform.

23 Q. Now, was there a book called the Noble Qur'an?

24 A. That's correct, yes. That's the translation of
25 the Qur'an I referred to previously.

1 Q. Okay. And who was -- you said what version was
2 that?

3 A. That was a translation that came out of Saudi
4 Arabia. I would describe it as being a Wahhabi
5 translation of the Qur'an.

6 Q. Okay. Now, before we get into that, you
7 mentioned some name that went with it, and I think the
8 court reporter would love for you to spell that for her.

9 A. Absolutely. Muhammad bin Jamil Zino. And it's
10 M-U-H-A-M-M-A-D, B-I-N, J-A-M-I-L, Z-I-N-O.

11 Q. Now, can we see DGR-1, please. Do you
12 recognize at least the first page of this exhibit?

13 A. Yes. That is the Noble Qur'an.

14 Q. And if you could take a look at that, can you
15 explain to the jury what we're looking at here?

16 A. This is the back cover of the Noble Qur'an. It
17 has both al-Haramain's address in Saudi Arabia, and also
18 it has the address of the Ashland, Oregon, branch below
19 it.

20 Q. Okay. And the next page, please. Now, if you
21 could blow this up. Was this part of the Noble Qur'an
22 that you were referring to?

23 A. Yes, it was.

24 Q. Okay. This was a particular appendix?

25 A. Yes. This appendix is the Call to Jihad. I

1 should explain is that because Arabic reads from right
2 to left, including in books, the first page is on the
3 right-hand side as opposed to the left-hand side. But
4 this was an appendix which was in all of the versions of
5 the Qur'an that were there while I was there, which is
6 about the duty of jihad, or as it defines it, holy
7 fighting. And it makes the case that there is an
8 eternal obligation to wage war on that which is not
9 Muslim.

10 Q. Now, was this actually part of the Qur'an, to
11 your knowledge?

12 A. No, it's not actually part of the Qur'an. The
13 Qur'an is -- you know, really when Muslims talk about
14 the Qur'an, they're talking about the Arabic text. And
15 there were a number of insertions that weren't part of
16 the Arabic text that were featured in this Qur'an. All
17 the appendices, those actually aren't part of the
18 Qur'an. They are part of the book overall. They are
19 meant to describe aspects of the faith, similarly, for
20 example, the very first surah or chapter, there is --
21 you know, there is these verses at the end, which in
22 Arabic translate as, you know, lead us to the straight
23 path, not the path of those who earned your anger or
24 those who went astray. And, you know, in this
25 translation, in the English, there are insertions that

1 aren't part of the Arabic. So it says not the path of
2 those who earned your anger and it inserts, such as the
3 Jews; nor of those who went astray, such as the
4 Christians.

5 So there is different kinds of explanatory
6 verses that are meant to guide the reader's direction in
7 a particular way.

8 Q. Now, taking a look at this Call to Jihad, just
9 the first opening lines, it indicates praises to Allah
10 who was ordained, al-jihad, the holy fighting in Allah's
11 cause?

12 A. Yes.

13 Q. With the heart, with a hand, weapons,
14 et cetera?

15 A. Yes.

16 Q. With a tongue?

17 A. Yes.

18 Q. And you would send this out to prisoners in the
19 United States?

20 A. That's correct.

21 Q. During the time you were there, approximately
22 how many of these were sent out?

23 A. It's hard to say how many were sent during the
24 time I was there, but by the time I left, there had
25 been -- you know, judging from what I had seen in the

1 databases that we kept, there were probably about 15,000
2 copies that had been sent out.

3 Q. 15,000?

4 A. Best I could tell, yes.

5 Q. And what kind of score did you have to earn on
6 the prisoner questionnaire to get this version?

7 A. A three, meaning that if you were considered
8 Muslim, you would receive this Qur'an.

9 Q. Okay. If we could move to page 1236. 1236.
10 And this is another part of the Call to Jihad that's in
11 this appendix?

12 A. Yes.

13 Q. And it indicates that Muslims were ordered to
14 take all precautions against the enemies of Allah and
15 get ready against them with all they can of power,
16 because that is the first step for jihad; is that
17 correct?

18 A. That's correct.

19 Q. To get ready for jihad includes various kinds
20 of preparations and weapons, tanks, missiles, artillery,
21 aeroplanes, air force, ships, navy, et cetera; is that
22 correct?

23 A. That's correct.

24 Q. And the training of soldiers in these weapons?

25 A. Yes.

1 Q. Now, who was the author of this Call to Jihad?

2 A. Muhammad bin Humaid, last name H-U-M-A-I-D, who
3 had previously been a Saudi Arabian chief justice but
4 who got into trouble with the Saudi government because
5 he was too extreme for them.

6 Q. Now, when you were working at al-Haramain, did
7 you read this Noble Qur'an that you were sending to the
8 prisoners?

9 A. I did.

10 Q. Did you read Call to Jihad?

11 A. Ultimately I did; not right away, though.

12 Q. And what was your reaction to the Call to
13 Jihad?

14 A. Well, during my time at al-Haramain, I began to
15 adopt a much more conservative and ultimately somewhat
16 extreme understanding of the faith. This was what, you
17 know, the various books that we distributed taught.
18 This was what I'd be lectured to about -- by others
19 there, including Sheikhs who we brought in from outside.

20 So initially it was something that made me
21 uncomfortable, but I felt that if it was correct, this
22 was a religious obligation, that it was something that I
23 had to desire in my heart.

24 Q. Did you -- let me ask you this: Did you send
25 this particular book to non-Muslims?

1 A. In general, when non-Muslims received the
2 Qur'an, they would receive a different translation, one
3 that was less extreme.

4 Q. And what one was that?

5 A. There were two, one of them was the Yusuf Ali
6 translation which --

7 Q. You might want to spell that.

8 A. Y-U-S-U-F, and last name A-L-I. That was one
9 translation.

10 The other one was Marmaduke Pickthall,
11 M-A-R-M-A-D-U-K-E, P-I-C-K-T-H-A-L-L. Those would be
12 the two translations that when we had things like, you
13 know, open sessions where we would teach non-Muslims
14 about Islam, those would be the Qur'ans in general that
15 would be given to non-Muslims, not the Noble Qur'an.

16 Q. When you say they were more moderate, what do
17 you mean by that?

18 A. Well, for example, in the first surah that I
19 referred to before where it talks about how Jews earned
20 Allah's wrath and Christians went astray, it didn't say
21 that in there, it didn't add the Jews and Christians.
22 It just said you guide us to the straight path, the path
23 of those who earned your grace, not the path of those
24 who earned your anger or went astray. Likewise, it
25 didn't contain the different footnotes within this

1 Qur'an that advocate jihad. It did not contain the Call
2 to Jihad appendix that you had previously discussed.

3 Q. Now, did you ever discuss with Mr. Seda which
4 kind of Qur'an to give to various people?

5 A. Yes, on one occasion, I recall.

6 Q. And what was that?

7 A. We had our cultural tent where non-Muslims
8 would visit and would be taught about Islam. There was
9 one woman who was kind of oohing and aahing, she
10 obviously was -- she liked what we were saying. And
11 when I was going to get her a Qur'an, Mr. Seda specified
12 that I should get her, I believe, the Yusuf Ali
13 translation of the Qur'an, not the Noble Qur'an.

14 Q. So the more moderate one?

15 A. Correct.

16 Q. Can we see to DGR-2. Do you recognize that
17 particular exhibit, Mr. Gartenstein-Ross?

18 A. Yes, I do. It's the book I referred to earlier
19 by Muhammad bin Jamil Zino.

20 Q. And who would this book be sent to?

21 A. Well, for the prisoner program, it would be
22 sent to prisoners who scored higher and who had a more
23 advanced Islamic knowledge.

24 Q. So you had to do better than a three to get
25 this?

1 A. In general, yes.

2 Q. How many of these books were sent out while you
3 were there?

4 A. Well, again, I don't know precisely, but in my
5 estimation, by the time I had left, there had been a
6 thousand sent out overall. Not all of them during the
7 time I was there, but during the time that they were
8 operative.

9 Q. Now, if we could move, there is -- the next
10 page -- well, back to -- these books would also have a
11 notation that they were distributed by the al-Haramain
12 Foundation?

13 A. That's correct. This was a sticker put into
14 the book or a stamp, I believe. The others were
15 actually printed on the Noble Qur'an's back cover.

16 Q. Does this appear to be a copy of the book?

17 A. It is.

18 Q. If we could take a look at page 130, there is a
19 reference to "jihad is obligatory on every Muslim in two
20 ways: By spending one's wealth or offering oneself for
21 fighting in the cause of Allah."

22 A. That's correct.

23 Q. And then "jihad as an individual duty"?

24 A. That's correct.

25 Q. "This type of jihad becomes a must when the

1 enemy of the Muslims enters their land, like the Jews
2 who settled in Palestine."

3 A. Correct.

4 Q. "Every Muslim will be guilty unless he expels
5 the Jews by money or physical fighting."

6 A. Yes.

7 Q. And on the next page, 133, the "jihad against
8 the disbelievers, communists and the aggressors from the
9 Jewish-Christian nations can be either by spending on
10 jihad or by participating in it in person."

11 A. Correct.

12 Q. "The Prophet said perform jihad against
13 polytheists by wealth, body, and tongue."

14 A. Yes.

15 Q. So you would send that out to prisoners?

16 A. Yes.

17 Q. But not to non-Muslims?

18 A. What did you say?

19 Q. But not to non-Muslims?

20 A. No, not at all.

21 Q. Now, did you learn who the main point of
22 contact in Riyadh was for the parent organization
23 al-Haramain?

24 A. It was Soliman al-But'he. Do you need it?

25 THE REPORTER: No.

1 BY MR. GORDER:

2 Q. How did you learn that?

3 A. Because this was the person who we would have
4 e-mail contact with. Mr. Seda would have occasional
5 telephone contact with Mr. al-But'he. And he would be
6 the one who we would need to speak to after we'd send
7 out the reports. Additionally the reports that we'd
8 send, the monthly reports that I referred to earlier,
9 would be e-mailed directly to Mr. al-But'he.

10 Q. Now, did you -- did you ever meet Soliman
11 al-But'he?

12 A. I did not.

13 Q. Did you ever participate or overhear any phone
14 conversations with him?

15 A. I did.

16 Q. How would that come about?

17 A. Often Pete -- often Mr. Seda would have the
18 speaker phone on when I was in the office when he was
19 speaking to Mr. al-But'he. He would do that in order to
20 either have me present so I could take notes or I could
21 be cognizant of whatever action items would come out of
22 these telephone calls.

23 Q. So you were kind of taking down a list of
24 things to do, that sort of thing?

25 A. That's correct.

1 Q. How was -- would you describe Mr. al-But'he's
2 English ability?

3 A. Mr. al-But'he's English ability was fine. He
4 would sometimes use incorrect words, but he could read
5 English, he could write English, and he could speak in
6 English.

7 Q. And you know about the reading and writing from
8 the e-mails?

9 A. Yes.

10 Q. Did you ever overhear a phone conversation
11 between Mr. Seda and Mr. al-But'he about a television
12 program on PBS?

13 A. Yes, I did.

14 Q. And do you recall the circumstances of that?

15 A. Yes. On August 7th of 1998, al-Qaeda
16 terrorists struck two U.S. embassies in Africa, in Kenya
17 and Tanzania. They were struck simultaneously.

18 Subsequently there was a PBS show, Frontline,
19 which said that an Islamic charity had been involved in
20 these attacks. And it flashed al-Haramain's logo twice
21 during the discussion of how an Islamic charity had been
22 involved.

23 Mr. Seda wanted to talk to Mr. al-But'he about
24 this. He was very upset by the PBS reporting. And
25 during the course of the phone call, he said to

1 Mr. al-But'he, "This is wrong, isn't it? You know,
2 al-Haramain had nothing to do with the East African
3 embassy bombings, correct?"

4 And Mr. al-But'he would not deny al-Haramain's
5 involvement. Instead he just said, "oh, we have many
6 volunteers. We don't know."

7 Q. So he wouldn't answer the question directly?

8 A. He would not deny al-Haramain's involvement.
9 Instead his response was that they had many volunteers,
10 which was basically to me sounded a lot like an alibi.

11 Q. You mentioned e-mail. Was there an e-mail
12 system at the office?

13 A. There was.

14 Q. And did you have a particular e-mail address
15 while you were working there?

16 A. Yes. My e-mail address was, I believe,
17 DGR@qf.org.

18 Q. QF presumably for the Qur'an Foundation?

19 A. Right, which was the predecessor of al-Haramain
20 in Ashland.

21 Q. Was there an address Q@qf.org?

22 A. Yes, that was the general e-mail address.

23 Q. When you say general, what do you mean by that?

24 A. That was the main address, kind of the
25 institutional e-mail address. The other e-mail

1 addresses would be directed to individual people within
2 the organization. But Q@qf.org was the main e-mail
3 address. So if somebody e-mailed al-Haramain generally,
4 that's where it would go.

5 Q. Okay. How about P@qf.org?

6 A. That was Mr. Sedaghaty's address.

7 Q. Who had access to the Q@qf.org e-mails?

8 A. We all had access to it, including Mr. Seda.

9 Q. How about DH@qf.org?

10 A. That was David Hafer.

11 Q. R@qf?

12 A. That was Rob Brown.

13 Q. What about an e-mail address

14 Haramain@alharamain.org?

15 A. That was the institutional e-mail address for
16 the Saudi office of al-Haramain, I believe.

17 Q. So it was kind of the Saudi equivalent of
18 Q@qf.org?

19 A. That's correct.

20 Q. Did you ever discuss with Mr. Seda e-mails that
21 came in on the Q@qf.org?

22 A. Yes, on a number of occasions.

23 Q. Did you ever learn that he had seen an e-mail
24 from outside the office that had come into the office?

25 A. Yes. I mean, on one occasion he had seen an

1 e-mail on his home computer that I ended up deleting as
2 being irrelevant to us.

3 Q. And how do you know he saw it?

4 A. Because he talked to me about the e-mail.

5 Q. So he had access to the e-mail from his home
6 also?

7 A. He did.

8 Q. Were you ever reprimanded by Mr. Seda about an
9 e-mail that you had sent out?

10 A. Yes, on one occasion.

11 Q. And can you -- did the reprimand include
12 suggesting that you should refer to e-mails --

13 MR. WAX: Objection.

14 Q. -- like that elsewhere?

15 THE COURT: Just --

16 MR. WAX: That was leading, Your Honor.

17 THE COURT: Yeah. Thank you.

18 MR. GORDER: I'll rephrase the question.

19 BY MR. GORDER:

20 Q. Can you explain just generally what the
21 reprimand was about?

22 A. Yes. A non-Muslim had sent an e-mail asking
23 about female genital mutilation and whether it was an
24 Islamic practice. I replied with an e-mail saying that
25 it was not Islamic. And I was reprimanded for this on

1 the basis that I should have consulted with a set of
2 scholars that we had in Saudi Arabia who would love to
3 answer questions like that.

4 Q. Who reprimanded you?

5 A. It was done -- my understanding was that it
6 was -- it came through Pete.

7 MR. WAX: Objection, Your Honor. I'm going to
8 ask that this be stricken.

9 THE COURT: Sustained.

10 MR. WAX: I'm going to ask that the answer --

11 THE COURT: Sustained.

12 MR. WAX: Thank you.

13 BY MR. GORDER:

14 Q. Did you discuss that with Mr. Seda?

15 A. I did not. I discussed it with Mr. Hafer.

16 Q. Okay. Now, during the period of time that you
17 were there, did some of the folks associated with --

18 A. Actually, I'm sorry, let me go back to that.

19 There were two separate things. There was the reprimand
20 which came from Mr. Hafer. Then on a second occasion, I
21 did discuss this with Mr. Seda. He was conciliatory
22 towards it, but Mr. Seda introduced the idea that we
23 have scholars in Saudi Arabia who love to answer this
24 kind of thing. So I did discuss the e-mail with
25 Mr. Seda.

1 Q. Okay. And what does "scholars" mean to you?

2 A. It means people who are trained in Islamic law
3 who can provide religious rulings on matters that won't
4 necessarily be clear to people with less training.

5 Q. People like you?

6 A. Correct.

7 Q. Now, was there a period of time while you were
8 working there where a number of the local attendees or
9 persons associated with al-Haramain went on the Hajj?

10 A. Yes.

11 Q. And can you just briefly explain to the jury
12 what the Hajj is?

13 A. The Hajj is a duty of Muslims when -- it's
14 considered one of the five pillars of Islam, and that is
15 to take a pilgrimage to Mecca once during the believer's
16 lifetime.

17 Q. And do you recall when the Hajj trip was that
18 year?

19 A. It fell into March with a bit of overlap with
20 another month. I think it was -- I think it might have
21 run March to April or else it was just March.

22 Q. And this was 1999?

23 A. That's correct.

24 Q. Did you attend the Hajj?

25 A. I did not.

1 Q. So you stayed behind and ran the office?

2 A. I did.

3 Q. Okay. When Mr. Seda returned from the Hajj,
4 did you have any discussion with him about donating some
5 money?

6 A. Yes, I did.

7 Q. And what was that about?

8 A. Well, this was around the time that there was a
9 humanitarian crisis flaring up over Kosovo. Ultimately
10 the U.S. intervened militarily. But after Mr. Seda
11 returned, following one sermon, he stood up and
12 addressed the congregation and said what's going on in
13 Kosovo is terrible. The Serbs are slaughtering Muslims,
14 raping women. And I know a couple of brothers who want
15 to go and fight the Serbs. And he asked for donations
16 from the congregation.

17 Q. Where did this conversation take place?

18 A. It took place in the main prayer room.

19 Q. How many people were around?

20 A. Approximately, I would say, a dozen.

21 Q. Did you donate money?

22 A. I did.

23 Q. If we could see BOA-16. Have you seen this
24 exhibit before?

25 A. I have.

1 Q. And it's wire funds transferred to Albany?

2 A. That's correct.

3 Q. Dated April 15th, '99?

4 A. Yes.

5 Q. Does that date ring a bell with you as to the
6 time frame that this Kosovo donation was done?

7 A. Yes. It was shortly after the request.

8 Q. How much money did you donate?

9 A. \$5.

10 Q. Did -- while you were working at al-Haramain,
11 did you have visitors from the al-Haramain office?

12 A. Yes, we did.

13 Q. And who were they?

14 A. We had a few visitors. The major ones were
15 Abdul Qaadir Abdul-Khaaliq, who is a convert to Islam;
16 and Ahmed Ezzat. They also were accompanied by a film
17 maker who was going to make an Islamic educational film.

18 Q. If we could have SW-4, please. And do you
19 recognize that photograph?

20 A. Yes. That's Abdul Qaadir Abdul-Khaaliq.

21 Do you need me to spell that for you?

22 THE REPORTER: No.

23 BY MR. GORDER:

24 Q. He's up on this chart that's over by the jury
25 box --

1 A. Yes.

2 Q. -- in the lower right-hand corner?

3 A. That's correct, that's him.

4 Q. Was he an employee of al-Haramain?

5 A. That was my understanding, yes.

6 Q. What was Mr. Seda's reaction to this gentleman
7 coming?

8 A. He thought very highly of Mr. Abdul Khaaliq.
9 You know, his view in advance of the visit, his
10 explanation to me was this guy is amazing. He knows
11 Islam really well. He's going to come and show us how
12 to practice real Islam.

13 Q. And did you eventually learn what his e-mail
14 was?

15 A. Yes, I did.

16 Q. Okay. And --

17 A. AQ@Yahoo.com. He also had a second e-mail
18 address, which was AQDCKSA@Yahoo.com.

19 Q. If we could see SW-26. And just this is the
20 second e-mail address that you were talking about?

21 A. That's correct, yes.

22 Q. Now, what did Mr. Abdul Qaadir do while he was
23 in Ashland?

24 A. He gave -- he taught some classes. I believe
25 that he gave sermons or Khutbahs as well. And, you

1 know, basically taught about Islam in a variety of ways.

2 Q. And how would you describe his version of
3 Islam?

4 A. I would describe it as harsh.

5 MR. WAX: Your Honor, I'm going to object. I
6 think we need a foundation here.

7 THE COURT: Sustained.

8 MR. WAX: Thank you.

9 THE WITNESS: I had several conversations with
10 him about how he understood Islam. On one occasion he
11 talked about how, in his view, people who left the faith
12 should be killed because it's tantamount to treason.
13 From that, I would describe his understanding of Islam
14 to be rather harsh.

15 Second, he subsequently sent me a large number
16 of e-mails about the fighting in Chechnya, which were,
17 to me, rather shocking, dealing with the mujahideen
18 there and the Russians in Chechnya.

19 That's another thing that I would -- from which
20 I would draw the conclusion that he had a rather harsh
21 understanding.

22 BY MR. GORDER:

23 Q. Can we go back to SW-26.

24 A. Yes.

25 Q. And if you could blow up the beginning there.

1 This is an e-mail from Mr. Abdul Qaadir?

2 A. Yes.

3 Q. To the Sheeshaan group?

4 A. Yes.

5 Q. What was that, if you know?

6 A. That's a group that he established dealing with
7 the news about the Chechen mujahideen. He subscribed --
8 he put several of us on his e-mail list, including
9 myself.

10 Q. So you received the Sheeshaan group e-mails?

11 A. I did.

12 Q. Are those the ones that you referred to as
13 somewhat fairly shocking?

14 A. Yes.

15 Q. If we could go to SW-2. Do you recognize
16 people in this particular picture?

17 A. I do.

18 Q. And if you could point them out for the jury.

19 A. Yes. This is David Hafer. This is me. And
20 this is Ahmed Ezzat.

21 Q. Who was Ahmed Ezzat?

22 A. He was a Sheikh who I believe also worked for
23 al-Haramain. He was originally from Egypt but moved to
24 Saudi Arabia.

25 Q. Did -- were you present when he gave a sermon

1 or a speech at the al-Haramain building?

2 A. I was.

3 Q. Okay. Was there a particular one about a
4 reference to the Talmud?

5 A. There was. It was not during the main speech,
6 rather it was after a speech that he had given where one
7 of the other Muslims asked me about the Talmud.

8 Q. And what is the Talmud?

9 A. The Talmud is the understanding -- Jewish
10 understanding of religious law. And the question I was
11 asked by someone else --

12 MR. WAX: Your Honor, I'm going to object.

13 THE COURT: Overruled.

14 THE WITNESS: The question I was asked by
15 someone else is what is the Talmud. Ahmed Ezzat
16 answered the question rather than me. He said that the
17 Talmud is the Jews' plan to ruin everything.

18 BY MR. GORDER:

19 Q. Was Mr. Seda present during this?

20 A. Mr. Seda was present.

21 Q. Did he have any reaction to this comment?

22 A. Yeah. Mr. Ahmed Ezzat extrapolated upon this
23 for some time, including talking about how soccer was a
24 Jewish plot because it's meant to make men show the skin
25 above their knees, which is impermissible under Islamic

1 law. Mr. Seda was very -- he was complimentary towards
2 it. He said, "wow, brother, this is amazing information
3 you have. You need to share this with the sisters,"
4 that is the women downstairs who could hear via the amp
5 downstairs. So he handed Mr. Ezzat the microphone so
6 that he could repeat his description of the Talmud.

7 Q. Did Mr. Seda ever say anything to you about how
8 he viewed either Mr. Abdul Qaadir or Mr. Ezzat?

9 A. He had a positive impression of both of them.
10 He -- as I said before, he was very laudatory about
11 Mr. Abdul Khaaliq's understanding of Islam. And he also
12 treated Mr. Ezzat as a respected religious teacher.

13 Q. Now, you indicated that you left al-Haramain.
14 Let me ask you this before we go there: During these
15 times where -- well, I'll withdraw that. You indicated
16 you left in August of 1999?

17 A. That's correct.

18 Q. And what was the reason that you left
19 al-Haramain?

20 A. To go to law school.

21 Q. And where did you go to law school?

22 A. New York University.

23 Q. Now, did something happen with regard to
24 Chechnya about the time you left?

25 A. Yes. Around the time I was leaving, a group of

1 Chechen mujahideen or holy warriors invaded a
2 neighboring republic, Dagestan, with the intention of
3 setting up an Islamic government in Dagestan. They were
4 repulsed. There was then a series of apartment bombings
5 in Russia. And Russia ended up invading Chechnya.

6 Q. Did you have any contact with Mr. Seda after
7 you went to law school about the situation in Chechnya?

8 A. I did, yes.

9 Q. And how were those contacts done, since you
10 weren't in the same city?

11 A. Both by phone and also by e-mail.

12 Q. Would you describe the contacts in general?

13 A. Well, Mr. Seda was obviously very upset by the
14 Russian prosecution of the war. He was also upset about
15 things that he considered as being negative or libelous
16 said about the mujahideen. For example, he was just
17 very upset by one report in which it was claimed that
18 the mujahideen were using chemical weapons against the
19 Russians. And he said to me that he could prove that
20 that was not the case.

21 Q. As far as you know, that wasn't true?

22 A. That the mujahideen were using chemical
23 weapons? I don't know one way or the other. As far as
24 I know, it's not true.

25 Q. And was this the time where this Sheeshaan

1 group got set up, this e-mail group?

2 A. Yes, it was around the same time.

3 MR. GORDER: Your Honor, if we could see --
4 this will be a defendant's exhibit, 687. And perhaps if
5 you could just blow up the e-mails so it's a little
6 easier for the jury to read.

7 BY MR. GORDER:

8 Q. Sir, do you recognize this particular e-mail?

9 A. I do.

10 Q. And was this your e-mail address at NYU?

11 A. It was, yes.

12 Q. Okay. And it's dated January 17, 2000?

13 A. Yes.

14 Q. And it's sent to P?

15 A. Yes.

16 Q. Was that -- who was that?

17 A. Who was what?

18 Q. Who is P?

19 A. That is Mr. Seda.

20 Q. You sent this e-mail?

21 A. Yes.

22 Q. And you indicate that you are "looking forward
23 to working with you" on the Grozny project?

24 A. Yes.

25 Q. What was that?

1 A. Mr. Seda had a recurring idea of establishing,
2 you know, on aid caravan that would go into a conflict
3 zone. Previously this idea had surfaced with respect to
4 the crisis in Kosovo, where they would be delivering
5 humanitarian supplies, and that would send a signal that
6 the war had to end.

7 He indicated that he had another such project
8 that he wanted to undertake with respect to Grozny,
9 sending a caravan of aid into Grozny to send a signal
10 both about the humanitarian conditions and also that the
11 war had to end.

12 Q. And you said there was a similar project with
13 regard to Kosovo?

14 A. Well, it was a similar idea. It never really
15 got off the ground. He e-mailed the Serbian ambassador
16 to a Serbian representative several times, but
17 ultimately it was something which did not happen.

18 Q. Okay. Could we still see the exhibit, just
19 to -- 687. You also requested some Noble Qur'ans?

20 A. That's correct.

21 Q. What was that all about?

22 A. This was during -- this was during Ramadan that
23 year. And I was part of a law school student
24 association called the Middle Eastern Law Student
25 Association. We were holding an Iftar dinner, which is

1 the dinner that breaks the Ramadan fast. And we wanted
2 to get a number of Qur'ans to distribute to students at
3 the event.

4 Q. And there is a phrase at the very end, forgive
5 my pronunciation, Jazak Allah Khair. What does that
6 mean?

7 A. Jazak Allah Khair means may Allah shower you
8 with goodness or award you with goodness.

9 Q. In Arabic?

10 A. In Arabic, yes.

11 Q. Okay. If we could go to 687A. And if you
12 could just blow that up a little so we could read it.
13 This is an e-mail from P to you; is that correct?

14 A. Yes. It's forwarding an e-mail that he had
15 sent to Mr. al-But'he in Saudi Arabia.

16 Q. Okay. And, again, it talks about the convoy
17 proposal?

18 A. Yes, it does.

19 Q. Okay. If we could go to 687B. What was your
20 reaction to the convoy proposal?

21 A. At first I thought it was a very noble idea
22 when he first approached me about it. One that was
23 unlikely to happen given that, you know, the Russians
24 don't want the war to end, so they wouldn't want a
25 convoy to occur that would be sending a signal that the

1 war had to end. They were prosecuting it at the time.
2 But it struck me as a noble idea.

3 Eventually I received an e-mail from him that
4 made me think that it wasn't a proposal that he was --
5 that gave me some fixed feelings about the proposal when
6 he sent me a request to the Russian ambassador which was
7 extremely derogatory to him.

8 Q. Okay. In this particular e-mail, did you -- if
9 you could just blow up the first couple of paragraphs.
10 Did you do some research about how to contact the
11 Russian Federation?

12 A. Yes, I did.

13 Q. What was that all about?

14 A. Well, Pete wanted to -- Mr. Seda wanted my
15 help. And in part, he had just sent me, you know, more
16 Qur'ans than I requested. I believe he sent me 200
17 Qur'ans for the Iftar event. So I felt it would be good
18 to reciprocate by helping him with some research that he
19 needed.

20 Q. And so you sent him the phone numbers of the
21 Russian people at the U.N.?

22 A. Yes, that's correct.

23 Q. Okay. Now, if we could see 687C. If you could
24 just blow up the e-mail a little bit. Do you recall
25 receiving an e-mail from Mr. Seda along this line?

1 A. Yes. This was the e-mail that included an
2 attachment, which made me quite a bit more skeptical of
3 the project.

4 Q. And why was that?

5 A. Because the attachment on two occasions talked
6 about either kissing the Russian ambassador's filthy ass
7 or kissing and bribing his filthy ass.

8 Q. If we could go to the next page. And if you
9 could just blow up the first paragraph. Is this the
10 letter you referred to?

11 A. Yes, Dear Ambassador Bonehead.

12 Q. What was your reaction when you received this
13 letter?

14 A. Well, two things. Number one, it made me think
15 that, you know, there was Russian animus as much as
16 there was concern for the people in Chechnya. And,
17 second, it made me think that this was something that
18 wasn't, you know, likely to ever advance as a proposal.

19 Q. Did there come a point in time where Mr. Seda
20 asked you to go to JFK Airport?

21 A. Yes.

22 Q. And what was that all about?

23 A. He wanted me to meet Mr. al-But'he when
24 Mr. al-But'he was coming into the country, to present
25 him with flowers and make him feel like a welcomed

1 guest.

2 Q. And how did that request come to you?

3 A. Through the phone. He called me to ask me to
4 do that.

5 Q. Do you recall approximately when that was?

6 A. I believe it was early -- I believe it was
7 March of 2000.

8 Q. And he wanted you to go where?

9 A. He wanted me to go to the JFK Airport to meet
10 Mr. al-But'he who was flying in from Saudi Arabia.

11 Q. And present him with flowers?

12 A. Yes.

13 Q. Did you do that?

14 A. I did not.

15 Q. Why was that?

16 A. Because getting to the JFK Airport from where I
17 lived was a \$35 cab trip, so it's \$70 both ways. And,
18 also, I wasn't sure at that time that I wanted to see
19 Mr. al-But'he.

20 As I said, you know, I adopted a very strict
21 interpretation of the faith during my time there. And,
22 you know, at this point, I was really -- that was waning
23 a bit. I was grappling with the way that I felt
24 theologically, religiously after having adopting some
25 views that were extreme because I felt that they were

1 the right thing with God.

2 One thing that I had done, I used to have a
3 full beard when I was at al-Haramain, which was, you
4 know, explained to me as a religious obligation. I'd
5 shaved that down to a goatee. Among other things, I
6 didn't want to have Soliman -- Mr. al-But'he lecture me
7 or look down upon me for having improper facial hair.

8 MR. GORDER: No further questions, Your Honor.

9 THE COURT: Cross.

10 MR. WAX: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. WAX:

13 Q. Good morning, sir.

14 A. Good morning.

15 Q. I'd like to start pretty much where Mr. Gorder
16 was leaving off.

17 A. Okay.

18 Q. And ask you some things about some of these
19 central issues here in the indictment.

20 A. Okay.

21 Q. Did I understand correctly that in the winter
22 of 2000 you were in communication with Mr. Seda about
23 his desire to try to get a caravan of humanitarian
24 relief to Chechnya?

25 A. Yes.

1 Q. Did I also understand correctly that, as you
2 understood it, that was a recurring idea of his?

3 A. Yes.

4 Q. You mentioned the peace caravan to Kosovo.

5 A. Yes.

6 Q. That occurred while you were working at
7 al-Haramain?

8 A. Yes, his idea for it occurred. The caravan
9 itself did not occur.

10 Q. I understand. But the notion of it occurred
11 while you were working?

12 A. Yes, that is correct.

13 Q. You participated in some efforts to try to make
14 that become a reality?

15 A. Yes. There was some communication with the
16 Serbian ambassador.

17 Q. I think you mentioned in direct examination
18 some -- was it e-mail or was it letters or --

19 A. With the Serbian ambassador?

20 Q. Yes.

21 A. That was conducted, I believe, via e-mail and
22 via the phone. Mr. Seda was the main point of contact.
23 I was providing assistance on that.

24 Q. Was there also a letter written with respect to
25 that effort?

1 A. Yes, yes, there was. I believe that the letter
2 was sent as an e-mail attachment, but I don't know for
3 sure, or it was faxed.

4 Q. Did you work on that letter, sir?

5 A. I believe that I helped to draft it, yes.

6 Q. All right. You've already told us that
7 Mr. Seda's written English is not the best?

8 A. That's correct.

9 Q. While you were working there, one of the things
10 that you would do from time to time was to write things
11 in a more proper English?

12 A. That's correct.

13 Q. You did that with respect to the letter that
14 was attempting to get permission to run a convoy to --
15 into Kosovo?

16 A. Yes, I believe so.

17 Q. All right.

18 A. To be honest, whether I edited or not, my
19 memory is a little bit vague, but it sounds familiar.

20 MR. WAX: If I may have a moment, please, Your
21 Honor.

22 BY MR. WAX:

23 Q. You described for Mr. Gorder some of the e-mail
24 exchanges that you had with Mr. Seda in January. And he
25 showed you the language in the e-mail that Mr. Seda had

1 sent to you that had some rather harsher words in it,
2 correct?

3 A. Yes.

4 Q. Now, when Mr. Seda sent that to you, it was
5 with a request that you refine that letter and turn it
6 into a proper form that would be appropriate to send to
7 a diplomatic entity?

8 A. It said it would need some of your editing
9 work. I mean, this was not a matter of a letter that
10 had a few words misspelled or a few grammatical errors.
11 It was one that began Dear Ambassador Bonehead and then
12 talked about kissing or bribing your filthy ass.

13 Q. I understand that, sir. Mr. Seda's request to
14 you was to turn that into a letter requesting permission
15 to run the convoy, and for you to turn it into proper
16 diplomatic language; is that correct?

17 A. That wasn't clear to me. His e-mail to me says
18 at the top, "it needs some of your editing work." But
19 when I looked at the letter, it seemed so far off that
20 it didn't seem like the kind of thing I could work with
21 to edit.

22 Q. Did you not, in fact, edit and draft a letter
23 that was sent out on January 24th?

24 A. I have no recollection of that.

25 Q. Could we please show the witness Exhibit 689.

1 A. I don't -- I have no recollection of editing
2 this. He had other people working for him at the time.
3 I would guess that there is -- that somebody else had
4 edited this. If I had edited it, there surely would be
5 an e-mail that I had sent to Pete with -- to Mr. Seda
6 with the edited version.

7 Q. Did you have an opportunity to compare some of
8 the text that was in the e-mail that Mr. Seda sent you
9 with the text of this letter to see if, leaving aside
10 some of the anger at the situation, the core of the
11 request is essentially the same?

12 A. I believe this is my first time seeing this
13 letter, so, no, I have not had a chance to do that.

14 Q. And you don't recall having worked on it after
15 receiving the e-mail?

16 A. I do not, no.

17 Q. Thank you. Now, do you recall with respect to
18 efforts in which you assisted with Kosovo that there
19 were refugees who were being brought into the United
20 States and given asylum or at least a refuge in our
21 country on the East Coast?

22 A. Yes.

23 Q. Do you recall Mr. Seda being concerned about
24 the flight of those refugees?

25 A. Yes.

1 Q. Did you assist him in putting together a trip
2 to New Jersey where he was going to provide some
3 assistance, at least in the form of some literature, and
4 to do some fact finding about what else was needed?

5 A. Yes.

6 Q. He did go to New Jersey as you understand it?

7 A. He did, yes.

8 Q. And you helped put that together?

9 A. Yes, I assisted him.

10 Q. All right. Now, I'd like to take you through
11 some more of the e-mails in the winter than Mr. Gorder
12 showed you, and I'm going to -- we'll repeat a couple of
13 them, and then we'll move on to some you have not yet
14 been shown, I believe.

15 If we could start, please, with Exhibit 687A.
16 You've indicated that you recall having received this,
17 that would have been on or about January 17th that you
18 received it?

19 A. Yes.

20 Q. And you received it with the attachment below,
21 correct?

22 A. With the forwarded e-mail, yes.

23 Q. Yes. And what you see here is that on
24 January 1, Mr. Seda was writing to Mr. al-But'he
25 expressing concern about the conditions in Chechnya?

1 A. Yes.

2 Q. And what he was asking for support on from
3 Mr. al-But'he from al-Haramain Saudi was the idea of the
4 convey?

5 A. Yes.

6 Q. And his primary goal, his hope would be to get
7 permission to do that from the United Nations?

8 A. It says with U.N. support. I believe that --
9 I'm not sure who would have to approve it, whether it
10 would be the Russians or the U.N.

11 Q. Whichever, he was -- his goal was to do this
12 through some official channels?

13 A. Yes, that's what the e-mail says.

14 Q. All right. If we could put up 687B, please.
15 Do you recall that in addition to just sending this on
16 to you, what he was doing was soliciting your
17 assistance?

18 A. Yes.

19 Q. And in this e-mail, which is an attachment
20 that -- to an e-mail that he sent to B, and you've told
21 us that that was Bilal?

22 A. I haven't said that, but my understanding is
23 that it was Bilal, yes.

24 Q. I'm sorry. So Bilal was another employee. Did
25 he come after you left?

1 A. He came after me. I've never met him.

2 Q. But you are aware that he was hired?

3 A. That's correct.

4 Q. Are you aware that his responsibilities
5 included many of the tasks that you had previously been
6 performing?

7 A. I'm not aware of that, but I have no reason to
8 doubt it.

9 Q. Okay. So in this e-mail which Mr. Seda
10 forwarded to Bilal on February 21st, it includes your
11 response to him --

12 A. Yes.

13 Q. -- as of January 17 expressing your view, this
14 is a beautiful idea?

15 A. Correct.

16 Q. And offering to do all you can to help with the
17 humanitarian effort?

18 A. Correct.

19 Q. In here, you provide information about the
20 Russian Federation, phone numbers, fax numbers,
21 et cetera?

22 A. Yes.

23 Q. In 687, please, and it's difficult to tell
24 perhaps the times, because on some of these e-mails,
25 they show East Coast times and some West Coast times.

1 This is the one in which you refer to the Grozny project
2 and express your -- in fact, you are looking forward to
3 working with him on it?

4 A. Yes.

5 Q. And, in fact, you did?

6 A. I provided him with contact info, et cetera, I
7 did some research for him, yes.

8 Q. All right. If we could then put up, please,
9 687D. Do you recall that the day after the exchange
10 that you just looked at, his request of help from you
11 and your response, he forwarded you again the e-mail
12 that he had sent to Mr. al-But'he soliciting
13 Mr. al-But'he's help?

14 A. I didn't recall that he had sent it twice but
15 clearly he did.

16 Q. Thank you. And do you recall -- you've
17 described the exchange of the Qur'ans, your request for
18 the Qur'ans, and Mr. Seda sending them. Do you recall
19 perhaps two, two-and-a-half weeks after this initial
20 exchange, Exhibit 691, please, your asking Mr. Seda for
21 an update on what was happening in the Grozny project?

22 A. Yes.

23 Q. All right. The bottom of that, February 4, if
24 there are any developments in the convoy to Grozny,
25 please let me know. And Mr. Seda responded to you,

1 correct? Do you recall receiving --

2 A. Yes.

3 Q. -- the response at the top of the page? Him
4 telling you that, you know, the Russian interior
5 ministry is jerking him around, and he wanted some help,
6 see if we can lean on them somehow; do you recall that?

7 A. Yes.

8 Q. So he's clearly telling you, at least, that
9 he's trying to do something, and you saw the letter that
10 was sent on January 24th?

11 A. Yes. I had never seen that letter before but
12 I've seen it now.

13 Q. Now, do you recall responding to Mr. Seda a
14 little bit later, and responding with an apology? Take
15 a look at 695, please. So, again, he's forwarding this
16 to Bilal on February 21. But it has a response from you
17 on February 19 now. Do you recall apologizing, you
18 haven't been able to call, you've been out of town, and
19 if you can still help, you are offering to still help,
20 that you'll give him a call?

21 A. Yes.

22 Q. You're taking the initiative through this
23 letter and offering to call him?

24 A. Yes.

25 Q. Do you recall that now?

1 A. Yes, I recalled it previously.

2 Q. Okay. And do you recall that Mr. Seda then
3 communicated with you again, he was somewhat frustrated
4 that he was not able to go forward, and asked you for
5 some help a few weeks later?

6 A. Are you talking about help with finding which
7 Islamic charities were operating in the area?

8 Q. Do you recall him seeking assistance from you
9 in that regard?

10 A. I recall providing it.

11 Q. Do you recall him seeking it?

12 A. I don't recall the letter that he sent seeking
13 it.

14 Q. Could we see Exhibit 700, please. If you'd
15 take a look at this, please.

16 A. Yeah, I recall sending that e-mail.

17 Q. All right. And no question that you were still
18 viewing this as something that you were going to try to
19 participate in, offering to help, and providing the
20 help, and this is now a month and a half nearly after
21 the January 18 e-mail with the rough language in it,
22 correct?

23 A. Yeah, I was still providing him with
24 assistance.

25 MR. WAX: All right. Your Honor, would this be

1 a time for a break? I probably have a significant
2 amount more to do.

3 THE COURT: That's fine. We'll take a break.

4 MR. WAX: Thank you.

5 (Recess: 10:54 until 11:18 a.m. Jury enters
6 the courtroom.)

7 THE COURT: Just relax. Apparently, I beat the
8 witness back here, so.

9 (Witness enters the courtroom.)

10 THE COURT: Take your time. You may continue,
11 Mr. Wax.

12 MR. WAX: Thank you, Your Honor.

13 BY MR. WAX:

14 Q. Mr. Gartenstein-Ross, if I could ask you please
15 to try to keep your voice up a little. At times we were
16 having difficulty hearing you over here.

17 A. Certainly.

18 Q. Thank you. You mentioned in direct examination
19 some of your understanding of Mr. Seda's views on a
20 number of topics. And I'd like to ask you your
21 understanding of his views about terrorism and funding
22 terrorism and acts of violence generally.

23 You've heard him speak about those subjects,
24 haven't you?

25 A. I have.

1 Q. And you have an understanding about his views
2 being quite against terrorism?

3 A. I do not.

4 Q. Okay. Do you recall that you have been
5 interviewed by the agents of the FBI on a number of
6 occasions?

7 A. Yes, that's correct.

8 Q. And do you recall on January 7, 2003, having,
9 at least as I understand it, the first interview with
10 them?

11 A. That's correct.

12 Q. Do I understand correctly that before going in
13 for that interview, you formulated a plan for yourself
14 about how to handle it?

15 A. I -- the only plan I had was to tell the truth.

16 Q. Yes. Well, that is the plan that you had. And
17 do you not recall actually writing about, formulating
18 this plan?

19 A. Yes. And I also -- I know -- I'll let you take
20 your questions where you are going.

21 Q. Thank you, sir. So when you went into the FBI
22 on that first occasion, it was your intent to tell the
23 truth, and you did tell the truth?

24 A. I did.

25 Q. All right. And do you recall on January 7,

1 2003, telling the FBI, Mr. Seda hates terrorism and
2 believes it gives Islam a bad name?

3 A. Yes. That was prior, sir, to revelations about
4 where this money has been going.

5 Q. Well, you don't know where this money has gone,
6 do you, sir?

7 A. I don't know directly, no.

8 Q. Have you been in Chechnya?

9 MR. GORDER: Objection, Your Honor.

10 MR. WAX: Well, I object, Your Honor, and ask
11 that that be stricken.

12 THE COURT: It will not. The objection is
13 sustained.

14 BY MR. WAX:

15 Q. Have you been in Chechnya?

16 A. No, I have not.

17 Q. Have you been in the offices of al-Haramain in
18 Saudi Arabia?

19 A. No.

20 Q. Do you have any firsthand knowledge from
21 speaking with anyone in Chechnya about whether or not
22 the El-Fiki donation ever got there?

23 A. No.

24 Q. Do you have any firsthand knowledge from anyone
25 about whether the donation from Mr. El-Fiki was used for

1 humanitarian purposes?

2 A. No.

3 Q. Now, let's get back to the questions that I was
4 asking you, sir. Do you recall seeing a fatwa put out
5 by Osama bin Laden that talked about killing Americans?

6 A. Yes.

7 Q. And do you recall that Mr. Seda saw that fatwa?

8 A. Yes.

9 Q. Do you recall speaking with him about that
10 fatwa?

11 A. Yes.

12 Q. And do you recall Mr. Seda being quite upset
13 about that?

14 A. He said it was against Islam.

15 Q. He said it was against the Islam that he knew
16 and he understood, correct, sir?

17 A. That is correct.

18 Q. You understand Islam to be a religion that has
19 a wide diversity of views, do you not?

20 A. Yes, I do.

21 Q. You understand that there is no central
22 authority in Islam?

23 A. Within Sunni Islam, yes.

24 Q. You understand that within Islam, people can
25 read fatwas and follow them if they believe in them, or

1 they can reject them if they are inconsistent with their
2 belief?

3 A. Yes.

4 Q. And what Mr. Seda said to you and you heard him
5 discuss it, was that the Osama bin Laden's use of
6 terrorism was not the Islam taught by the Prophet?

7 A. Yes, that's correct.

8 Q. Now, Mr. Gorder asked you about the Frontline
9 show.

10 A. Yes.

11 Q. And if I heard you correctly, you told
12 Mr. Gorder that Mr. Seda was upset when he saw that?

13 A. That's correct.

14 Q. Do I understand correctly that Mr. Seda was
15 upset at two things with respect to the Frontline
16 discussion of the bombings at the embassy?

17 A. Are you going to enumerate those two things?

18 Q. Do you recall Mr. Seda being upset at the fact
19 of the bombings themselves?

20 A. No, I do not, because we never had a discussion
21 about that. The bombings occurred in August of 1998
22 before I started working there. When we had that
23 discussion with Mr. al-But'he, he was upset about
24 al-Haramain's alleged complicity.

25 Q. Mr. Seda did not believe that al-Haramain would

1 be involved in anything like that, correct?

2 A. Before the phone call, yes. After the phone
3 call, it certainly raised doubts when Mr. al-But'he
4 would not deny al-Haramain's role.

5 Q. And Mr. Seda's response to that, sir, was to
6 consider washing his hands of al-Haramain?

7 A. That is correct.

8 Q. Now, it turned out that he did not wash his
9 hands of al-Haramain, correct?

10 A. That is correct, too.

11 Q. But you describe, I think, that there were a
12 number of occasions when there was tension between
13 Mr. Seda's views at the al-Haramain Ashland branch, and
14 the views of the people at al-Haramain Saudi Arabia?

15 A. Some tension, yes.

16 Q. You described, I think, one thing involving the
17 mixing of boys and girls?

18 A. Yes.

19 Q. If I heard you correctly, you said it's your
20 recollection that when classes of boys and girls would
21 come to the tent, that the boys would be on one side and
22 the girls would be on the other?

23 A. Correct.

24 Q. Do you not recall that the boys and girls just
25 mingled together?

1 A. You are talking about the class that came in
2 December of 1998?

3 Q. Any number of classes --

4 A. They were -- I didn't see any number of
5 classes. There was one high school class that came. It
6 was in December of 1998. And they were segregated with
7 the boys on one side and the girls on the other.

8 Q. You do not recall other classes coming?

9 A. Other high school classes or classes -- no, I
10 do not. I recall other non-Muslims showing up to the
11 tent but I don't recall any other classes coming.

12 Q. Do you recall other non-Muslims coming in
13 groups to the tent?

14 A. Yes.

15 Q. Do you recall them being mixed gender?

16 A. Yes.

17 Q. And do you recall that the people would mingle,
18 men and women together?

19 A. Yes.

20 Q. And you told us that when Mr. Seda was
21 discussing with you the report that you had sent to
22 al-Haramain about this one incident that you recall,
23 that he asked you to tone down the description?

24 A. That's correct.

25 Q. It's your understanding, however, because you

1 observed it, I take it, that after, he continued to
2 allow groups of men and women to mingle together in the
3 tent?

4 A. Of non-Muslims? Yes.

5 Q. I'd like to ask you about the -- another issue
6 with respect to the mixing of genders. Do you recall an
7 interaction with a fellow named Sheikh Adly?

8 A. Yes.

9 Q. And do you recall a meeting that you and
10 Mr. Seda might have gone to together?

11 A. We were with Mr. Adly together a number of
12 times.

13 Q. Yes. And do you recall an issue came up with
14 Sheikh Adly not wanting to be alone with a woman?

15 A. Yes.

16 Q. And do you recall that Mr. Seda complained
17 about that and spoke up about that?

18 A. Well, he didn't speak up to Mr. Adly. He spoke
19 up to me about that, and we solved the issue.

20 Q. And when he spoke up, it was "I don't agree
21 with that"?

22 A. Yeah. He thought Mr. Adly had an overly rigid
23 interpretation.

24 Q. Thank you. Now, with respect to the views that
25 are expressed by some people, you've told us that Islam

1 is a large tent, if you will. And that's true with
2 respect to views about jihad as well, is it not?

3 A. Yes.

4 Q. There are many people who believe that jihad
5 should be a personal journey or a personal struggle?

6 A. Yes.

7 Q. There are others who take a more harsh view or
8 a more aggressive view of jihad?

9 A. Yes.

10 Q. Do you recall that in discussions with people
11 at the al-Haramain building, there might have been some
12 people, I think you said, who expressed some views that,
13 well, offensive jihad or a warring struggle is okay?

14 A. Yes.

15 Q. Others did not?

16 A. Correct.

17 Q. And in those discussions, there was discussion
18 that even among those who thought that a warring jihad
19 was okay, there were people who said, look, if you are
20 going to do that, though, you cannot hurt civilians?

21 A. I don't recall the specific discussions, but
22 certainly those views are out there within Islam.

23 Q. And you don't recall them at the al-Haramain
24 building?

25 A. Not off the top of my head. If there is

1 something specific you are referring to, I'm sure you
2 can refresh my memory.

3 Q. Well, do you recall that another interview you
4 had -- and I'm not sure exactly how this is written up,
5 it says October 15th and 18th of 2004, a meeting with
6 Colleen Anderson?

7 A. Yes.

8 Q. And do you recall telling Ms. Anderson or Agent
9 Anderson, excuse me, on that occasion that some of the
10 members of AHIF were sympathetic to the mujahideen?

11 A. Uh-huh.

12 Q. Some are not, correct?

13 A. When --

14 Q. Some are and some are not?

15 A. Which AHIF are you referring to? Are you
16 referring to the Ashland congregation? The Saudi Arabia
17 branch? I'm just not sure what your question is.

18 Q. From the notes it appears as though you were
19 discussing with Agent Anderson the views of people at --
20 while you were employed at AHIF in Ashland, some of the
21 members of AHIF -- I don't know, I guess, which AHIF you
22 were referring to.

23 A. I understand the question. I think I was
24 referring to the overall congregants. And, yes, some
25 were sympathetic, some were not.

1 Q. And with respect to those who were sympathetic,
2 do you recall, at least it's reflected in her notes,
3 persons at the prayer house did mention there were rules
4 for jihad and civilians should not be harmed?

5 A. Yes. The reason why your question threw me for
6 a little bit of a loop is because saying that civilians
7 shouldn't be harmed in jihad doesn't necessarily
8 constitute an endorsement of jihad, of militant
9 fighting.

10 Q. I'd like to talk with you -- switch gears here
11 a little bit and ask you some questions about some of
12 your work at al-Haramain.

13 A. Okay.

14 Q. I first want to ask you whether or not I have
15 correctly read your description of some of the people
16 you met there, Mr. Brown, Mr. Rodgers, Mr. Hafer,
17 perhaps even Mr. Seda, Muslim rednecks; is that a phrase
18 you've used?

19 A. Yes. Not necessarily to describe those
20 specific individuals, but it was an interesting
21 congregation. That was not said in a derogatory way.

22 Q. There were people who were -- liked being out
23 in the woods?

24 A. Yeah, absolutely.

25 Q. Mr. Sedaghaty was an arborist?

1 A. Yes, absolutely.

2 Q. He worked in the forests, I guess, before he
3 started his business. Do you have any knowledge of
4 that?

5 A. Yes.

6 Q. And you have knowledge of Rob Brown, Dave --
7 well, Rob Brown and Dave Rodgers also having work in the
8 woods?

9 A. Yes.

10 Q. And some of them grew up in the Ashland area?

11 A. Yes.

12 Q. But some not in the city, I think you grew up
13 more in the -- more urban or suburban area?

14 A. Yeah.

15 Q. And some of these guys were from around some of
16 the hills and hollers?

17 A. That's correct.

18 Q. When you got there and started looking at, you
19 know, some of the work that you did, you told us that
20 eventually you started dealing with some of the
21 finances?

22 A. Yes, eventually I started inputting expenses
23 into the database.

24 Q. And what you found was a great deal of
25 disorganization?

1 A. When I picked it up, yes. I said when I picked
2 it up, it was disorganized because Mr. Brown had not
3 done that work for some time. It wasn't -- it wasn't
4 that difficult to organize it. It was just a matter of
5 going back and making sure it was in order.

6 Q. You, as I understand it, have not only a
7 college degree but a law school degree?

8 A. That's correct.

9 Q. All right. And have you ever taken any
10 accounting courses or business courses in law school?

11 A. Yes. I mean, I took a course on tax law. I --
12 I took part of a course on accounting for lawyers before
13 deciding that it was too boring.

14 Q. Well, I'm with you there, and that may be the
15 only place we're together, sir. You instituted a
16 computer program, did you not?

17 A. I didn't institute it. They had a preexisting
18 program, Microsoft Key Access.

19 Q. All right. It hadn't really been used properly
20 or it hadn't been used much, had it?

21 A. It had been used. It's just that there were
22 several months in which -- there were a number of months
23 where data had not been entered, but there was already a
24 system in place when I picked up the program. I did not
25 initiate its use.

1 Q. All right. Let me see if I have misunderstood
2 something here. I want to refer you back, please, to
3 your notes of an interview on January 15 -- excuse me,
4 January 7, 2003, an indication that you said at that
5 time that you set up a program on the computer using
6 Microsoft Access.

7 MR. GORDER: Your Honor --

8 A. Those are not my words.

9 MR. GORDER: Could the witness be allowed to
10 see what he's being asked about?

11 THE COURT: Yes.

12 MR. WAX: It's one sentence, Your Honor.

13 THE WITNESS: It's okay. I don't need to see
14 it. I mean, the fact that the interview says I set it
15 up doesn't mean that those are the words that I said.
16 That's what was written in the interview. I didn't set
17 up the program. The program was there previously.

18 BY MR. WAX:

19 Q. So you are telling --

20 A. I did use the program.

21 Q. But you're telling us that the agent who wrote
22 this down, as you recall it, wrote it down incorrectly?

23 A. Well, I'm saying that the words "set up a
24 program," yes, technically, that's probably not the
25 exact right way to frame it, but when you are writing a

1 witness affidavit that's several pages long, sometimes
2 there will be a word or two that's astray. I disagree
3 with your interpretation of this affidavit.

4 Q. Do you recall that when you were trying to get
5 into this bookkeeping that you found that there were
6 some repetitive check numbers?

7 A. Yes.

8 Q. Some pretty basic mistakes, same check number
9 appearing on multiple checks?

10 A. Yes.

11 Q. Now, in terms of what you described about
12 Mr. Seda's involvement in the running of the operation,
13 I want to get back to that for a moment. Isn't it true
14 that he was rarely there at al-Haramain?

15 A. He wasn't there 9:00 to 5:00. He was
16 frequently in the office, but, you know, there would
17 be -- he wouldn't be there, you know, looking over the
18 work constantly.

19 Q. Well, let me, if I may, read you another
20 sentence from this report of January 7th, written down,
21 Seda was rarely at the office as he had his day job.

22 A. Right. That's consistent with what I talked
23 about, that he wasn't there 9:00 to 5:00. He would be
24 there for prayers almost everyday. Bear in mind, the
25 prayers and the -- the prayers and -- the prayer room

1 and the office are in the same building. So he would be
2 in the building frequently. He was not a manager who
3 was in the office everyday.

4 Q. Not a hands on manager?

5 A. Well, he was -- I can't speak whether he's a
6 hands on manager or not. You can be hands on without
7 being in the office everyday. It depends on how
8 thoroughly you look at the work. He looked at
9 everything that I put together before it was sent out to
10 the head office or anywhere else.

11 Q. Let's go back to the language of the report.
12 As written down by the agent, it was Seda was rarely at
13 the office. Are you indicating to us that that is
14 another inaccuracy?

15 A. I am not --

16 MR. GORDER: Your Honor, could the witness be
17 given a copy of the report?

18 THE COURT: Yes.

19 MR. WAX: The section bracketed in red.
20 (Document tendered).

21 THE WITNESS: Okay.

22 BY MR. WAX:

23 Q. Having reviewed that, does that refresh your
24 recollection that that is what you told the agent or are
25 you indicating that the agent perhaps didn't get it down

1 precisely as you said it?

2 A. My recollection has not changed at all. It's
3 not inaccurate. He was rarely at the office during
4 office hours. He was frequently at the building. He
5 would come there for prayers. He would come there --
6 and when he came for prayers, for example, usually
7 coming for the maghrib prayers, which are around
8 4 o'clock or 5 o'clock, he would often look over work.

9 It is not inconsistent with what the agent
10 wrote down. It's just an elaboration on it. As you
11 know, affidavits such as that don't encompass every
12 single nuance and subtly. You are over interpreting
13 that.

14 Q. Thank you for the lecture. I appreciate it.
15 Can we get back to the questioning?

16 MR. GORDER: Objection, Your Honor.

17 THE COURT: That's stricken.

18 BY MR. WAX:

19 Q. With respect to the work of the al-Haramain
20 Foundation when you were there, you have talked to us
21 about some of the work in the reports. You would
22 prepare reports that would describe the work that was
23 being done, correct?

24 A. Yes. That's correct.

25 Q. And when you prepared those reports, did you

1 report with relative accuracy to Saudi Arabia?

2 A. Yes.

3 Q. Okay. With respect to the e-mails --

4 Mr. Gorder asked you about some of the e-mail addresses,
5 and you've described some of those for us. You've also
6 mentioned this person Abdul Qaadir?

7 A. Yes.

8 Q. He was an employee of al-Haramain in Saudi
9 Arabia?

10 A. Correct.

11 Q. And on one occasion he visited in Ashland?

12 A. Yes, for a fairly extended stay, over a month,
13 I believe.

14 Q. All right. But there is no question he was an
15 al-Haramain Saudi employee?

16 A. Correct.

17 Q. I want to ask you a few questions, please,
18 about the prisoner program. If I heard you correctly,
19 you said that all of the Qur'ans that were sent to
20 prisoners were the Noble Qur'an?

21 A. That I know of. During my time there, all the
22 Qur'ans that were sent to prisoners were the Noble
23 Qur'an, I believe.

24 Q. Are you not aware and do you not recall that
25 some of the Yusuf Ali Qur'ans were sent to prisons?

1 A. I don't recall that, no. In any of the orders
2 that I placed for prisons, never once do I recall
3 sending out an Yusuf Ali translation.

4 MR. WAX: Your Honor, would you like me to show
5 the witness the report or can I read the sentence to
6 him?

7 THE COURT: The witness should have it, please.

8 BY MR. WAX:

9 Q. If you'd look at the red bracketed area,
10 please, and see if that refreshes your recollection.

11 A. Okay.

12 Q. You've had an opportunity to read the report as
13 the agent wrote it down?

14 A. Yeah.

15 Q. Does that refresh your recollection about the
16 Yusuf Ali Qur'an also being sent out to prisons?

17 A. Yes. I'm sure that that's correct, but if it
18 was sent out, which, again, I have no reason to doubt,
19 having refreshed my memory on that --

20 Q. Thank you, sir.

21 A. -- it certainly wasn't the vast -- was the vast
22 minority of the time.

23 Q. Now, with respect to the Qur'ans sent out to
24 prisons, do you recall that there was communication with
25 either chaplains or wardens in many of the prisons?

1 A. Yes.

2 Q. Do you recall that you would need to get
3 permission to have the Qur'ans sent in?

4 A. It depends on the prison. Some prisons, yes.
5 Other prisons, no.

6 Q. All right. But you are aware that certainly
7 with some of the prisons there was a screening process?

8 A. Yes.

9 Q. And the Qur'ans that were sent in, whether the
10 Noble Qur'an or the Yusuf Ali Qur'an for those prisons,
11 would have been screened by the authorities?

12 MR. GORDER: Objection, calls for speculation.

13 THE COURT: Sustained.

14 BY MR. WAX:

15 Q. Well, I believe that there was -- if he knows
16 there was communication with some of the institutions,
17 wasn't there, sir?

18 A. I recall communication with one chaplain in
19 Oklahoma, I believe.

20 Q. And were Qur'ans sent to that prison?

21 A. I don't recall.

22 Q. Do you recall that there was some disagreement
23 between al-Haramain Saudi Arabia and al-Haramain Ashland
24 about the prisoner program as a whole?

25 A. Yes.

1 Q. The al-Haramain Saudi people didn't really
2 believe in it?

3 A. That's correct.

4 Q. Yet Mr. Seda did and it continued?

5 A. Yes.

6 Q. In terms of the relief work by al-Haramain in
7 Ashland, do you recall from time to time letters coming
8 in or requests coming in in other written forms by
9 people seeking assistance from al-Haramain Ashland?

10 A. Yes.

11 Q. Do you recall inquiries with respect to
12 Somalia?

13 A. No.

14 MR. WAX: If we could show the witness
15 something marked for identification, Your Honor. This
16 is not in evidence. 1201, please.

17 THE COURT: Thank you.

18 THE WITNESS: This arrived at a time that I was
19 not at al-Haramain. Actually, it -- yeah, yeah, I was
20 not in the country at this point in time.

21 THE COURT: Don't --

22 MR. WAX: It's not to the jury, Your Honor.

23 THE COURT: It's on my screen.

24 MS. WELLS: It's on your screen, but this
25 screen is what the jury sees.

1 MR. WAX: If you prefer, we can do it with the
2 paper copies.

3 THE COURT: Yes.

4 BY MR. WAX:

5 Q. Did I understand correctly when you were
6 testifying on direct examination that you were working
7 for al-Haramain from late '98 through August of '99?

8 A. Right. I was -- at this particular point in
9 time, I was in Britain, so I don't -- I mean, obviously,
10 this e-mail was sent. It's something that I've never
11 seen before.

12 Q. Do you have any recollection of any discussion
13 about aid for people in Somalia?

14 A. I do not.

15 Q. Do you have any recollection about any
16 discussion about aid in the form of goats?

17 A. No, I do not.

18 Q. Do you have any recollection about discussion
19 of aid requests for Kenya, humanitarian aid requests for
20 Kenya?

21 A. I do not, no.

22 Q. If we could please show the witness, just in
23 paper form, Exhibit 1215, marked for identification,
24 excuse me.

25 I recognize the date on this is after you had

1 left, but I'd ask you to take a look at it to see if it
2 refreshes your recollection about any communications of
3 a similar nature.

4 A. No, it doesn't. I mean, we got -- we got
5 requests like this frequently, but generally it just
6 wasn't something we would provide.

7 Q. Okay. But requests like that --

8 A. Yeah.

9 Q. -- I mean --

10 A. I have not seen this request before, that's why
11 I couldn't recall it, but, yes, we would receive
12 requests like this.

13 Q. Thank you. All right. With respect to the
14 literature that al-Haramain Ashland sent out, do I
15 understand correctly from reading some of the
16 information, that your view is that Mr. Seda is not the
17 most literate of individuals?

18 A. I've said that before. I think that that's
19 inaccurate. I think he can read fine. One thing that
20 I've done since I've previously had that opinion --

21 Q. Excuse me, I'm asking you about facts, not any
22 research that you have done, sir.

23 Do you have an understanding -- did you have an
24 understanding at some time -- some time ago -- that
25 Mr. Seda probably had not read all the literature that

1 was sent out?

2 A. Yes.

3 Q. Now, I would like to ask you, sir, just a
4 little bit, in brief, about some of your religious
5 exploration. You've described for us, I think, that
6 your parents were born to parents of the Jewish faith?

7 A. That's correct.

8 Q. You've described your upbringing was -- I
9 didn't understand the word you used.

10 A. Syncretistic.

11 Q. Syncretistic?

12 A. Syncretistic.

13 Q. A blend? A mixture?

14 A. A mixture.

15 Q. Thank you. You then converted to Islam?

16 A. Yes.

17 Q. The branch or sect, I'm not sure which word to
18 use, of Islam that you were practicing initially I think
19 you said was a Sufi oriented practice?

20 A. Yes.

21 Q. You then became somewhat more doctrinaire in
22 your theory?

23 A. Yes, while working at al-Haramain.

24 Q. And you have since left the Islamic faith?

25 A. That's correct.

1 Q. And have you adopted a new faith?

2 A. I have.

3 MR. GORDER: Objection, Your Honor. I think
4 we're going beyond --

5 THE COURT: Yeah, that's all right. I'll allow
6 some of it, but let's try to stick to the issues here.

7 MR. WAX: Well, may he answer that question or
8 not, Your Honor?

9 THE COURT: Yes.

10 THE WITNESS: Yes, Christianity.

11 BY MR. WAX:

12 Q. Now, with respect to your time at al-Haramain,
13 if I have understood your writings correctly, when you
14 were first exploring Islam, there was something, I think
15 you've said, that was stirring inside yourself?

16 A. Yes. What I'm describing there is the zeal of
17 someone finding a new faith.

18 Q. And you were looking for something for yourself
19 that would be relatively rigid?

20 A. When I first embraced Islam?

21 Q. No. As you were moving through Islam, you were
22 looking for something --

23 A. Well, no, I mean, rigidity was pretty much
24 thrust upon me.

25 Q. Well, sir, do you recall saying about yourself

1 you did not want to be racked by doubt?

2 A. That's correct. I wanted theological
3 certainty.

4 Q. Thank you. Now, I'd like to ask you a question
5 or two about the testimony you gave about Soliman
6 al-But'he's visit to the United States in March of 2000.

7 A. Yes.

8 Q. Do you recall that the communication, there was
9 direct communication between you and Mr. al-But'he?

10 A. Yes. We spoke on the phone briefly while he
11 was in New York.

12 Q. Do you recall that there was direct
13 communication between you and Mr. al-But'he about your
14 meeting with him in New York?

15 A. Yes.

16 Q. In fact, Mr. al-But'he and you exchanged
17 e-mails about it?

18 A. I don't recall exchanging e-mails but that may
19 well have happened.

20 Q. Do you recall that the initiative for the
21 meeting with Mr. al-But'he actually came from an e-mail
22 that you received from him?

23 A. As far as I know, the initiative came from a
24 discussion with Pete. Pete had -- with -- Mr. Seda had
25 called me to ask me to meet with Mr. al-But'he.

1 Mr. al-But'he may have subsequently e-mailed me but the
2 initial impetus came from Mr. Seda.

3 Q. You don't recall the -- an e-mail from
4 Mr. al-But'he telling you that he would like to meet
5 with you?

6 A. I don't recall it. I'm not saying it wasn't
7 sent, but I don't -- this was ten years ago.

8 Q. Could we please show the witness what we have
9 marked as 1216.

10 A. I've looked at it.

11 Q. Does that refresh your recollection?

12 A. Yes, it does.

13 Q. Thank you, sir. Now, I'd like to turn to this
14 supposed conversation or call for money for mujahideen
15 after the Hajj.

16 A. Yes.

17 Q. Okay. You've told us that this occurred
18 sometime after the Hajj.

19 A. Yes, after.

20 Q. Can you pin it down any more specifically?

21 A. I cannot. I -- I've pinned it down to, I
22 believe, March or April of 1999, but it was after
23 Mr. Seda returned from the Hajj.

24 Q. Do you recall discussion in that time frame at
25 the prayer house about the need for humanitarian relief

1 for the people in Kosovo?

2 A. Yes.

3 Q. Do you recall in that time frame giving
4 humanitarian relief for the people in Kosovo?

5 A. No. I recall sending money to -- we did send
6 money to an organization Justice For All. We didn't
7 provide direct humanitarian assistance, but we did make
8 a donation.

9 Q. A donation to an organization that was
10 soliciting for humanitarian relief?

11 A. Yes.

12 Q. And did you participate in that?

13 A. Yes.

14 Q. Did you actually write the check for it?

15 A. I may well have, yes.

16 Q. Well, let's see if we can pin this down, sir.
17 The -- you came back from the Hajj --

18 A. I didn't go to the Hajj.

19 Q. Excuse me, they came back from the Hajj, and we
20 have some time records here that I'd like to show you.
21 If we could please show the witness what we have marked
22 as 1201B?

23 THE REPORTER: B or D?

24 MR. WAX: B.

25 THE CLERK: 1201C?

1 MR. WAX: B.

2 THE COURT: B as in boy.

3 THE CLERK: I show what looks like your records
4 at 1201C.

5 MR. WAX: There should be two sets of time
6 records.

7 THE CLERK: I don't have a 1201B as in boy
8 (documents tendered).

9 BY MR. WAX:

10 Q. Would you take a look at that, please, sir, and
11 tell us whether or not you recognize it?

12 A. Yes.

13 Q. What do you recognize it to be?

14 A. That this is my timesheet which I would submit.

15 Q. Would you please put the two pages side by
16 side. It appears as though that's how they would have
17 been laid out?

18 A. That's correct.

19 Q. And would you look on April 2nd, the Friday?

20 A. Uh-huh.

21 Q. Take a look at the entry there and see whether
22 or not that refreshes your recollection that discussion
23 about Kosovo would have taken place on Friday,
24 April 2nd?

25 A. The Kosovo task -- there were more than one

1 occasion on which Kosovo discussions happened. The
2 Kosovo task force is what I talked to you about before.
3 It was administered by an organization Justice for All.
4 This was something that occurred while -- I believe it
5 occurred while Mr. Seda was still on Hajj. And that
6 this contribution was solicited by the individual giving
7 the Khutbah that Friday who was Abdi Guled.

8 Q. So if you believed that the discussion that's
9 referred to -- well, is there a discussion referred to
10 in that timesheet?

11 A. A discussion? There is -- you are talking
12 about the April 2nd?

13 Q. April 2nd.

14 A. There is no discussion. It says Jummah
15 prayers, no contribution to Kosovo task force.

16 Q. All right. And you are telling us that it's
17 your recollection that Mr. Seda was still on Hajj at the
18 time?

19 A. I believe so, yes.

20 Q. If we could please show the witness what's
21 marked for identification as 1201F. Have you had a
22 chance to look at that?

23 A. Yeah.

24 Q. Is your handwriting on that item?

25 A. Yes.

1 Q. Is that a check for \$100?

2 A. Yes.

3 Q. Dated?

4 A. Dated April 2nd.

5 Q. Signed by?

6 A. It has a signature that is Pete's signature.

7 That is --

8 Q. Do you recognize that as the signature you saw
9 many times while you worked there?

10 A. Yes. But often I would be asked to sign that
11 signature.

12 Q. Are you telling us that this is your
13 handwriting?

14 A. I don't know whose handwriting that is. What I
15 am saying is that I know for sure that he was on Hajj at
16 this point because if you look at my entries, April 1st,
17 feed and play with animals; April 2nd, feed animals;
18 April 3rd and 4th, feed and play with animals, I was
19 doing this because they were on Hajj. And the person
20 who would normally feed the animals, David Hafer, was
21 not there. So because of the time entries, I'm quite
22 sure that he was still on Hajj, that my recollection is
23 accurate.

24 Q. If we could please show the witness Exhibit
25 1201A for identification --

1 A. And also one thing I would point out --

2 Q. Mr. Gartenstein-Ross, there is another
3 question.

4 THE COURT: He may explain his answer.

5 THE WITNESS: One thing I would point out is
6 that Mr. Seda returned by April the 6th, so I would
7 submit that it's entirely possible that I wrote out the
8 check on April 2nd, and Mr. Seda finally signed it later
9 on. That often happens with checks.

10 BY MR. WAX:

11 Q. Now, before you look at 1201A, please keep --
12 get the timesheet back up in front of you.

13 A. It's right here.

14 Q. You went on vacation and were away from the
15 Ashland area for several weeks in April, were you not?

16 A. Well, not for several weeks, but for nine days.

17 Q. When did you leave?

18 A. The 12th.

19 Q. When did you come back?

20 A. The 21st.

21 Q. If you now please look at 1201A. Do you recall
22 having seen this?

23 A. I don't recall having seen this. I don't have
24 any reason to believe that I didn't, but I don't recall
25 it.

1 Q. Do you recall having seen an appeal for Kosovo
2 humanitarian relief like this while you were working in
3 Ashland in April of 1999?

4 A. There were multiple appeals, yes.

5 Q. Multiple humanitarian appeals, correct?

6 A. Yes.

7 Q. If you would take a look at that again, please,
8 and see whether or not there is any date or time
9 notation on it up at the top?

10 A. April 2nd of 1999.

11 Q. Thank you, sir. If we could please show the
12 witness what is marked for identification as 1201E.
13 Have you had a chance to look at that?

14 A. Yes.

15 Q. Do you recall having seen that while you were
16 working at al-Haramain Ashland --

17 A. Yes.

18 Q. -- in the spring?

19 A. This is precisely what we talked about before,
20 Kosovo task force, U.S.A., and I correctly identified it
21 as Justice For All.

22 Q. And this is another one of the many appeals for
23 humanitarian relief that came into Ashland in that time
24 frame?

25 A. Yes.

1 Q. Now, after you came back from the trip that you
2 took in April, your involvement with Kosovo relief
3 continued, did it not?

4 A. Well, it wasn't Kosovo relief. It was for
5 Kosovar refugees.

6 Q. Excuse me, your involvement with relief for the
7 Kosovo refugees continued?

8 A. Yes.

9 Q. Do you recall in May that you had communication
10 with Soliman al-But'he about another group that had
11 communicated with you that had relief and it was looking
12 for a way to get it to the refugees?

13 A. Yes.

14 Q. If we could please show the witness what we
15 have marked as Exhibit 1210 for identification. Does
16 this appear to be an e-mail chain between you and
17 Soliman al-But'he?

18 A. Yes. I would like to take another second to
19 review it, if that's okay.

20 Q. Please.

21 A. Okay, yes.

22 Q. Do you recall --

23 A. Yes.

24 Q. -- that you received some communication from a
25 group, Purdue University?

1 A. Yes.

2 Q. They had some money they wanted to give to
3 refugees?

4 A. No. They had food, clothing, and non-
5 prescription medication, not money.

6 Q. Excuse me, not money, they actually had goods?

7 A. Yes.

8 Q. Thank you. You communicated with
9 Mr. al-But'he?

10 A. Yes.

11 Q. Mr. al-But'he communicated back with you?

12 A. Correct.

13 Q. And he told you the address, the location to
14 give these people of an al-Haramain group in the region
15 that could get the supplies to the refugees?

16 A. Yes.

17 Q. Thank you, sir. One last set of questions,
18 sir. You know Evan Kohlmann?

19 A. Yes.

20 Q. You indicated at the outset, I believe, that
21 your job includes some consulting work on
22 counterterrorism?

23 A. Yes.

24 Q. You and Evan Kohlmann are in competition?

25 MR. GORDER: Objection, Your Honor. I don't

1 see the relevance of this.

2 THE COURT: Overruled.

3 THE WITNESS: I am not sure if in competition
4 would be the right way to phrase it, but we both work in
5 the same field.

6 BY MR. WAX:

7 Q. And you have had some disagreements, have you
8 not?

9 MR. GORDER: Objection, Your Honor.

10 THE COURT: Overruled.

11 THE WITNESS: We have a bit of a personal
12 rivalry, I would frame it.

13 BY MR. WAX:

14 Q. Well, personal rivalry includes your belief
15 that he has said things about you that are libelous?

16 MR. GORDER: Objection, Your Honor.

17 THE COURT: Overruled.

18 THE WITNESS: I sent him an e-mail at one point
19 trying to get him to stop saying bad things about me.
20 Whether they are actually libelous, I think is -- I
21 don't -- I do not think that they are. I was trying to
22 persuade him to tone down the rivalry.

23 BY MR. WAX:

24 Q. Do you recall in May of 2009 speaking with
25 Agent David Carroll?

1 A. Yes.

2 Q. And if you would like to look at the report --

3 A. No, I recall it.

4 Q. Do you recall telling him at that time
5 describing Kohlmann's statements as libelous?

6 A. Right. I was in a somewhat agitated state.

7 MR. WAX: Thank you, sir. I have no further
8 questions.

9 THE COURT: Redirect.

10 REDIRECT EXAMINATION

11 BY MR. GORDER:

12 Q. Mr. Gartenstein-Ross, just to go back to the
13 issue about the two brothers going to fight the Serbs --

14 A. Yes.

15 Q. -- when did that conversation with Mr. Seda
16 occur?

17 A. Well, looking at this, now that the -- that
18 this has refreshed my memory, it had to have occurred on
19 April 9th.

20 Q. Of 1999?

21 A. Of 1999.

22 Q. And you were clear as to what the purpose of
23 the money was for?

24 A. Yes. He said that two brothers -- not
25 necessarily that they were brothers in flesh, but

1 brothers in Islam, were going to go over to fight the
2 Serbs. It was very clearly laid out.

3 Q. And he asked you for a donation?

4 A. He asked the people there for donations, yes.

5 MR. GORDER: Nothing further, Your Honor.

6 THE COURT: Thank you. You may step down.

7 We'll take a recess until ten after 1:00.

8 THE CLERK: This court is in recess.

9 (Jury exits the courtroom at 12:06 p.m.)

10 THE COURT: Mr. Wax.

11 MR. WAX: Your Honor, I would like to offer at
12 this time exhibits that were marked for identification,
13 1201, 1201A, 1201B, 1201E.

14 THE COURT: What was that last one?

15 MR. WAX: E.

16 THE COURT: Okay. I had that. What was before
17 that?

18 MR. WAX: I'm sorry, 1201, then A.

19 THE COURT: Yes.

20 MR. WAX: B, E, and F.

21 THE COURT: Yeah. B -- I'm just writing B
22 down, so that's what happened. Thank you.

23 MR. WAX: 1210, 1215 and 1216.

24 THE COURT: Any objection?

25 MR. GORDER: Yes, Your Honor. I think 1201A he

1 said he hadn't seen before.

2 THE COURT: That's my recollection also.

3 MR. GORDER: 1210 -- or, excuse me, 1216, he
4 just said it refreshed his recollection he got an
5 e-mail. He didn't say anything further.

6 1215, he didn't recall.

7 No objection on 1201F, or 1201E, or 1201B.

8 And 1210, he just said he got an e-mail. He
9 didn't identify this particularly as an e-mail.

10 THE COURT: And 1201?

11 MR. GORDER: 1201? 1201, he said he'd never
12 seen before. He was on vacation or something.

13 MR. WAX: Your Honor, I would also point out
14 that regardless of his identifying them, they are on the
15 computer on the relevant subject and the relevant time
16 frame as those that are on the computer.

17 THE COURT: I'll give you rulings later on on
18 those.

19 MR. WAX: Thank you.

20 MR. GORDER: Some of these, Your Honor, are
21 not, as I understand it, on the computer.

22 MR. WAX: That's true. As I said, some are.

23 THE COURT: Some are and some are not?

24 MR. WAX: Yes, sir. And it should be obvious,
25 I think, from the documents, but we can give you a list

1 when we come back in that --

2 THE COURT: All right. Thank you. We're in
3 recess.

4 (Lunch recess at 12:09 p.m.)

5 (Further proceedings were had by Reporter Jan
6 Duiven and are bound under separate cover.)

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CERTIFICATE

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I, Deborah Wilhelm, Certified Shorthand Reporter
for the State of Oregon, do hereby certify that I was
present at and reported in machine shorthand the oral
proceedings had in the above-entitled matter. I hereby
certify that the foregoing is a true and correct
transcript, to the best of my skill and ability, dated
this 1st day of September, 2010.

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/s/ Deborah Wilhelm

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Deborah Wilhelm, RPR
Certified Shorthand Reporter
Certificate No. 00-0363

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